JEFFREY YOUNG,	*	**IN THE**
Plaintiff,	*	**CIRCUIT COURT**
v.	*	**FOR**
JUSTIN HOLDER, *et al*.,	*	**WASHINGTON COUNTY**
Defendants.	*	**Case No.: C-21-CV-20-000371**

* * * * * * * * * * * * *

PROPOSED ORDER

The Court having reviewed the "Motion to Vacate – September 28, 2021 Protective Order – Christine Morral" filed by Defendant Justin Holder, and the Response in Opposition filed on behalf of Christine Morral, finds no sufficient cause to vacate the protective order issued on September 28, 2021; accordingly, it is this 3rd of March, 2022

ORDERED that the Motion to Vacate be and hereby is denied.

03/03/2022
Date

Andrew F. Wilkinson
Judge
Circuit Court for Washington County

Entered: Clerk, Circuit Court for
Washington County, MD
March 4, 2022

IN THE CIRCUIT COURT FOR WASHINGTON COUNTY, MARYLAND

JEFFREY YOUNG *
Plaintiff
v. * Case No.: C-21-CV-20-371
JUSTIN HOLDER, *et al.*
Defendants *

ORDER

(Defendant Holder's Objection to May 11, 2022 Order)

This matter comes to the court on Defendant Justin Holder's Objection to the court's May 11, 2022 Order. The court having considered the objection, and finding there is no good cause, it is this 16th day of April 2022, by the Circuit Court for Washington County, Maryland, hereby:

ORDERED, that Defendant Holder's Objection to May 11, 2022 Order is denied.

Judge, Circuit Court for Washington County

cc: Counsel and parties of record

Entered: Clerk, Circuit Court for
Washington County, MD
May 17, 2022

IN THE CIRCUIT COURT FOR WASHINGTON COUNTY, MARYLAND

JEFFREY YOUNG *

Plaintiff

v. * Case No.: C-21-CV-20-371

JUSTIN HOLDER, *et al.*

Defendants *

ORDER

(Defendant Holder's Request to Stay pending Appeal)

This matter comes to the court on Defendant Justin Holder's MOTICE OF Appeal – Collateral Order – Slapp – Request of Stay. Having considered the pleading, and accepting Defendant Holder's pleading as a Rule 2-632 motion to stay, and finding there is no good cause, it is this 24th day of May 2022, by the Circuit Court for Washington County, Maryland, hereby:

ORDERED, that Defendant Holder's Request to Stay is denied.

Judge, Circuit Court for Washington County

cc: Counsel and parties of record

Entered: Clerk, Circuit Court for
Washington County, MD
May 25, 2022

IN THE CIRCUIT COURT FOR WASHINGTON COUNTY, MARYLAND

JEFFREY YOUNG *

Plaintiff

v. * Case No.: C-21-CV-20-371

JUSTIN HOLDER, *et al.*

Defendants *

ORDER

(Defendant Justin Holder's Motion to Bifurcate)

This matter having come to the court on Defendant Justin Holder's Motion to Bifurcate as requested in a letter dated May 23, 2022, and the court having discussed the procedure of the trial during a pre-trial conference on June 7, 2022, it is this 8th day of June 2022, by the Circuit Court for Washington County, Maryland, hereby:

ORDERED, that Defendant Justin Holder's Motion to Bifurcate as requested in a letter dated May 23, 2022 is denied as moot. The trial will proceed as discussed during the pre-trial conference of June 7, 2022.

Judge, Circuit Court for Washington County

cc: Counsel and parties of record

Entered: Clerk, Circuit Court for
Washington County, MD
June 9, 2022

IN THE CIRCUIT COURT FOR WASHINGTON COUNTY, MARYLAND

JEFFREY YOUNG *

Plaintiff

v. * Case No.: C-21-CV-20-371

JUSTIN HOLDER, *et al.*

Defendants *

ORDER

(Defendant Justin Holder's "Red Herring" Objection)

This matter having come to the court on Defendant Justin Holder's "Red Herring" Objection filed May 28, 2022, and the court finding there is no good cause, it is this 8th day of June 2022, by the Circuit Court for Washington County, Maryland, hereby:

ORDERED, that Defendant Justin Holder's "Red Herring" Objection filed May 28, 2022 be and is hereby denied.

Judge, Circuit Court for Washington County

cc: Counsel and parties of record

Entered: Clerk, Circuit Court for
Washington County, MD
June 9, 2022

IN THE CIRCUIT COURT OF MARYLAND FOR WASHINGTON COUNTY

DENIED

Andrew F. Wilkinson
06/13/2022

JEFFREY YOUNG

Plaintiff

v.

CASE NO C-21-CV-20-000371

JUSTIN HOLDER, Et Al

Defendant(s)

* *

OBJECTION FOR THE RECORD - JUNE 7th, 2022 RULING LIMITING TRIAL TIME TO 8 HOURS

COMES NOW Defendant, Justin Kyle Holder, in proper person, and files this Defendant's Objection for the record June 7th, 2022 ruling limiting trial time to 8 hours, and for reasons states:

The Defendant Respectfully Objects to the Courts Ruling on June 7th, 2022 in Pre Trial Hearing limiting the evidence presented by each side to 8 hours. The Defendant is very respectful of the Court's time and will make every effort to work swiftly. The Defendant has spent a great deal of resources preparing his case. The Defendant must be allotted the time needed to put on the evidence he has accumulated to protect his rights. The Defendant filed an Amended Answer at the close of discovery which contains facts that were not in genuine dispute after discovery. Unfortunately the Plaintiff is unwilling to stipulate to the facts, and it would be unfair to allow a Plaintiff's bad faith in stipulating to discovery not in dispute to prevail and not the merits of the case.

Therefore the Defendant is placing an objection on the record to preserve his rights in the case time runs out and he is not finished presenting his evidence.

Justin K. Holder

Pro Se Litigator

308 W. Chapline St.
Sharpsburg, MD 21782
t: (240) 356-2008
holder2004@Gmail.com

Entered: Clerk, Circuit Court for
Washington County, MD
June 14, 2022

Respectfully submitted,

Justin K. Holder, *Pro Se*
308 West Chapline Street
Sharpsburg, Maryland 21782
(240) 356-2008

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 7th day of June, 2022, a copy of the foregoing Defendant's Objection for the record June 7th, 2022 ruling limiting trial time to 8 hours was served via the MDEC system to :

Edward Kuczyński, Esq.,
Kevin Karpinski, Esq.,
Talley Kovacs, Esq.,
Peter Rogers, Esq.,
R. David Pembroke, Esq.,
Brandy Peeples, Esq.,
Robert Kline, Esq.,
Justin Holder, *Pro Se*

Justin K. Holder, *Pro Se*

Justin K. Holder

Pro se Litigator

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holder2004@Gmail.com

IN THE CIRCUIT COURT FOR WASHINGTON COUNTY

Jeffrey Young *
Case No.: C-21-CV-20-000371
Plaintiff, *
v.
*
Justin Holder, *et al.*
*
Defendants.

* * * * * * * * * * * * *

ORDER

This Court, having considered the Motion Pursuant to Rule 2-501(e) to Quash Trial Subpoena to Corporate Designee of the Maryland Department of General Services, any responses thereto, and there being good cause, it is this 17th of June, 2022 , hereby,

ORDERED: That the motion is granted; and

IT IS FURTHER ORDERED: That the subject subpoenas are quashed.

Service was insufficient.

Andrew F. Wilkinson
Judge, Circuit Court for Washington County
Andrew F. Wilkinson

Entered: Clerk, Circuit Court for
Washington County, MD
June 21, 2022

IN THE CIRCUIT COURT FOR WASHINGTON COUNTY, MARYLAND

Jeffrey Young *

Case No.: C-21-CV-20-000371

Plaintiff, *

v.

*

Justin Holder, et al.,

*

Defendants.

* * * * * * * * * * * * *

ORDER

The Court, having read and considered the Motion to Quash Second Trial Subpoena Issued to the Maryland Department of Natural Resources and any responses thereto, does this 17th of June, 2022

ORDER that the Motion is GRANTED, and

FURTHER ORDER that the Subpoena is quashed. Service was insufficient.

Andrew B. Wilkinson

Judge Andrew F. Wilkinson

Entered: Clerk, Circuit Court for
Washington County, MD
June 21, 2022

E-FILED; Washington Circuit Court
Docket: 6/15/2022 2:12 PM; Submission: 6/15/2022 2:12 PM

JEFFREY YOUNG * IN THE
Plaintiff * CIRCUIT COURT
v. * FOR
JUSTIN HOLDER, et al. * WASHINGTON COUNTY
Defendants * Case No.: C-21-CV-20-000371

* * * * * * * * * * * * * *

ORDER

UPON CONSIDERATION of the Board of County Commissioners for Washington County's Motion to Quash Subpoena Issued to the County, and any Opposition thereto, it is thereupon this 17th of June, 2022 2022, by the Circuit Court for Washington County, Maryland,

ORDERED, that the Board of County Commissioners for Washington County's Motion to Quash Subpoena Issued to the County **BE** and is hereby **GRANTED**; and

ORDERED, that subpoenas issued by Defendant Justin Holder to the Washington County Board of County Commissioners are **QUASHED**.

Service was insufficent.

Judge Andrew F. Wilkinson
Circuit Court for Washington County

Entered: Clerk, Circuit Court for
Washington County, MD
June 21, 2022

IN THE CIRCUIT COURT FOR WASHINGTON COUNTY, MARYLAND

JEFFREY YOUNG *

Plaintiff *

v. * Case No.: C-21-CV-20-371

JUSTIN HOLDER, et al. *

Defendant *

ORDER

Upon consideration of the Motion to Quash Subpoena filed by the Town of Keedysville and Kenneth Lord, the Court having heard argument presented by counsel and opposition thereto, it is this 22 day of June, 2022, by the Circuit Court for Washington County, Maryland, hereby:

ORDERED, that the Motion to Quash Subpoena to Kenneth Lord, is **GRANTED**; and it is further

ORDERD, that the Motion to Quash Subpoena to Corporate Designee of the Town of Keedysville is **DENIED**. The Corporate Designee of the Town of Keedysville will attend Court on Thursday, June 23, 2022.

Judge

cc: All parties

Entered: Clerk, Circuit Court for
Washington County, MD
June 22, 2022

IN THE CIRCUIT COURT FOR WASHINGTON COUNTY, MARYLAND

JEFFREY YOUNG	*	
Plaintiff	*	
v.	*	**Case No.: C-21-CV-20-000371**
	*	
JUSTIN HOLDER, et. al	*	
Defendant	*	

* * * * * * * * * * * * *

ORDER GRANTING TOWN OF KEEDYSVILLE'S REQUEST RELATING TO TIME OF TESTIMONY OF CORPORATE DESIGNEE, MATHEW HULL

Having read and considered TOWN OF KEEDYSVILLE'S LINE AND REQUEST, it is the 23 day of June, 2022 by the Circuit Court for Washington County, Maryland,

ORDERED that TOWN OF KEEDYSVILLE'S REQUEST be and is hereby **GRANTED.**

JUDGE, Circuit Court for Washington
County, Maryland

RECEIVED
JUN 23 2022
KEVIN R. TUCKER, CLERK
Entered By ______

DENIED 09/07/2022
Andrew B. Wilkinson
Andrew F. Wilkinson

IN THE CIRCUIT COURT OF MARYLAND FOR WASHINGTON COUNTY

JEFFREY YOUNG *
*
Plaintiff *
v. * CASE NO.: C-21-CV-20-000371
*
JUSTIN HOLDER, *et* al.; *
*
Defendant(s) *

* *

OBJECTION - ARTICLE IV SECTION 23 OF THE MARYLAND CONSTITUTION

COMES NOW Defendant, Justin Kyle Holder, in proper person, and files this Objection- Article IV Section 23 of the Md. Cont., in accordance with Md. Rule 2-517 & 2-602(b), and request the Honorable Court render a decision, and in support states:

INTRODUCTION

This case was argued before Honorable Andrew F. Wilkinson on June 23rd - 25th, 2022. Defendant Justin Holder has not been served a final decision rendered by the Honorable Court in this instant 371 case. On May 9th, 2022 Honorable Andrew F. Wilkinson ordered in case C-21-CV-21-420 (said 420 case *inter alia* litigates interference/nuisance related to public rights not placed at issues by the instant 371 Complaint[1]) stating in part:

> ”The court believes the stay in this case is in the best interest of judicial economy and will consider lifting the stay after the conclusion of the matter *Young v. Holder*, C-21-CV-20-371, scheduled for trial in June 2022.”
>
> see ***Exhibit 1 - Order - 420-4.***

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[1] **THE COURT** [Honorable Andrew F. Wilkinson]:
“...And I’m looking at Mr. Holder’s letter of May 23, because I think it’s a nice encapsulation. I don’t know if you all have that in front of you. And I’m looking at the first four items that he listed...Let’s go to number 4. And I sort of rename it or redescribe it as whether there are roads, town roads, county roads, that affect parcel 2 or parcel 3 that may traverse over the Young property. Separate from a private easement, these are government held roads. To me, that is not relevant in the case that we are having two weeks from now. I will not hear evidence on public roads. And the reason is if there are roads owned by the county or the town, whether those roads are open for use, whether they should be re-opened, whether they still exist, is a legislative function of government. It is not right now a judicial function and therefore we will not be discussing roads.” See ***Exhibit 2 - C-21-CV-20-000371 - Pretrial hearing transcript pages 6 & 7*** at p. 6:8 - 7:24.

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In case C-21-CV-20-430 there is an open Motion to alter or amend on the docket related to a stone survey monument (the “BQT Stone”)[2] referenced at the end of the 3rd line of deed granted from David Hess to Samuel Cost on Sept. 10th, 1832 and recorded among the land records of Washington County, Maryland at Liber NN folio 520 (the “NN520” deed). The record in the instant 371 case reflects that the 2nd and 3rd lines of the NN520 deed are not in dispute. In an Aug. 2nd, 2022 hearing in case C-21-CV-20-430 (set for trial on Oct. 3rd, 2022) Benjamin Estes and Justin Holder both asserted no genuine dispute of fact exist related to the boundary (reflected in the record as the 4th through 8th lines on deed NN520) requesting the Honorable Court make a decision as a matter of law.[3] On March 24th, 2022 the court and Justin Holder discussed the NN520 boundary generally: “THE COURT: Whatever I decide is, is general *res judicata* in any other case.” p. 36:12-13, and Defendant Holder continued discussing non mutual collateral *estoppel* and then requesting in closing:

> “MR. HOLDER: If we decided the [BQT] stone it would eliminate the need for expensive title experts [and] to drag my wife [to court] and cost her [thousands of dollars]. I mean, she has (unintelligible) I mean it’s, it’s, it’s insane what they’re doing to my wife. This is a war of attrition. There’s no experts that will testify that that stone is not the [BQT] stone, Your Honor.”

see *Exhibit 3 - March 24th, 2022 Hearing on Motion to Dismiss case C-21-CV-21-000420 pages 35 - 39*. The record reflects the experts (Messers Joliet and Nagel) agree as to the NN520 title line, and Mr. Estes knew the issue of the BQT stone was/has been litigated in the instant 371 case.

---

[2] The BQT Stone references a Bill *Quia Timet* Injunction filed by Justin Holder on May 10th, 2021 (Motion under Rule 2-211 filed on May 6th, 2021) into case C-21-CV-20-371, C-21-CV-20-430 and C-21-CV-21-130 (similar to Count V in case C-21-CV-21-420) that the Court affirm the BQT Stone marker at the end of the 3rd line of the NN520 deed has been found by Land Surveyor George Nagel. The Bill *Quia Timet* Injunction requested that if the Court would affirm the BQT Stone it would mitigate vexatious and costly litigation over the location of the NN520 deed (Cost/Keedy division lines 2-6) lines 2 through 8 which the record(s) in case 371 and 430 reflects are being litigated. Plaintiff Estes asserted the Bill *Quia Timet* Injunction should be treated as a Motion for Summary Judgement. See Generally *Exhibit 4 - Hearing Estes Motion to Dismiss March 11th, 2022 p. 10-11 19-20 and 52-54; Exhibit 5 - Hearing on Washington County Motion to Dismiss March 11th, 2022 p1-3* and the 371 case record.

[3] The records from the 8.2.22 hearing in case 430, and expert testimony in case 371 reflect Surveyor Frederic Frederick’s deviation from title lines created the color of title Messers Estes (430) and Young (371) rely on in their adverse possession claims west of the 4th through 8th lines of deed NN520.

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OBJECTION and DECISION DEFENDANT REQUESTs RENDERED

In ***Exhibit 2 - C-21-CV-20-000371 - Pretrial hearing transcript pages 6 & 7*** at p. 6:8-23 the Court generally defines the 4 (now only 3[1]) issues to be litigated in the instant 371 case, 2 issues materially pertain to Defendant(s) position[4] in other litigation (case 430/420) that:

1) the 2nd and 3rd lines on the NN520 deed are located by the BQT stone "found" at the end of the 3rd and an iron pipe "found" at the beginning of the 2nd; and
2) Plaintiff Jeffrey Young can not meet his burden to be granted title by way of adverse possession to any land west of the 2nd and 3rd lines on deed NN520.

With all due respect, the Court's delay in rendering a decision[5] is causing Defendant(s) the undue burden and unfair prejudice of putting on the same case (with the same witnesses/experts related to the BQT stone and NN520 title lines) in case C-21-CV-20-430 and delaying/denying justice in case C-21-CV-21-420. This result is precisely the inequitable war of attrition Justin Holder feared, preying for relief in his May 12, 2021 Bill *Quia Timet*.

Respectfully submitted,

Justin K. Holder, *Pro Se*
308 West Chapline Street
Sharpsburg, Maryland 21782
(240) 356-2008

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Pro se Litigator

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[4] Other parties to this instant suit may be prejudiced by a decision under rule 2-602(b) excluding the 3rd issue (private easement), not apparently pertinent to any other ***pending litigation***. Plaintiff Young failed to challenge Defendant(s) claimed rights to pass through his "parcel 1" (as asserted in the Defendant's pleadings, specifically Justin Holder's 2nd Amended Answer at ¶41) in the instant 371 complaint, see MD. Real Property Code Ann. § 14-619(a), MD. Courts and Judicial Proceedings Code Ann. § 3-405 and *Williams v. Moore*, 137 A.2d 193, 215 Md. 181 (1957). Noting in Case C-21-CV-21-116 the Honorable Court has found on Summary Judgement that Defendant Morral's statements related to the easement are false, see ***Exhibit 6 - Sept 23rd 2021 Hearing record - Holder v Morral - 116 (p30-34)***.

[5] **MD Cont. ART. IV SEC. 23.** "The Judges of the respective Circuit Courts of this State shall render their decisions, in all cases argued before them, or submitted for their judgment, within two months after the same shall have been so argued or submitted" (*amended by Chapter 523, Acts of 1980, ratified Nov. 4, 1980*) and (*emphasis supplied*).

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 26th day of August, 2022, a copy of the foregoing Objection- Article IV Section 23 was served via the MDEC system to :

PARTIES:

R. David Pembroke, Esq., Attorney for Plaintiff Jeffrey Young
Brandy Peeples, Esq., Attorney for Defendant Deena Holder
Robert Kline, Esq., Attorney for Defendant Uncle Eddies brokedown palace LLC
Justin Holder, *Pro Se* Defendant;

INTERESTED PARTIES:

Edward Kuczyński, Esq., Attorney for Town of Keedysville, Maryland,
Kevin Karpinski, Esq., Attorney for Washington County, Maryland,
Emily Vainieri, Esq., Attorney For Maryland Department of Natural Resources,
Peter Rogers, Esq., Attorney for Scott and Christine Morral,
Lesley Powell, Esq., Attorney for Olde Town Title,
Brian Maul., Esq., Attorney for Susan Selby,
Timothy Maloney, Esq., Attorney for Benjamin Estes.

Justin K. Holder, *Pro Se*

Justin K. Holder

Pro se Litigator

308 W. Chapline St.
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t: (240) 356-2008
holder2004@Gmail.com

JEFFREY YOUNG	*	IN THE
Plaintiff	*	CIRCUIT COURT
v.	*	FOR
JUSTIN HOLDER, et al.	*	WASHINGTON COUNTY
Defendants	*	Case No.: C-21-CV-20-000371

* * * * * * * * * * * * * *

ORDER

Upon consideration of Washington County Board of County Commissioners' Motion to Stay/Prohibit Justin Holder's Maryland Public Information Act Requests to Washington County, any opposition and replies thereto, it is this 7th of September, 2022 by the Circuit Court for Washington County, hereby

ORDERED, that the Washington County Board of County Commissioners' Motion to Stay/Prohibit Justin Holder's Maryland Public Information Act Requests to Washington County **BE** and is hereby denied as moot.

Judge, Circuit Court for Washington County
Andrew F. Wilkinson

Entered: Clerk, Circuit Court for
Washington County, MD
September 8, 2022

IN THE CIRCUIT COURT FOR WASHINGTON COUNTY, MARYLAND

JEFFREY YOUNG *

Plaintiff

v. * Case No.: C-21-CV-20-371

JUSTIN HOLDER, *et al.*

Defendants *

ORDER

(Defendant's Motion for New Trial)

This matter comes to the Court on Defendant Uncle Eddie's Brokedown Palace, LLC's Motion for New Trial. The court entered an Opinion and Orders on September 7, 2022. Defendant requests a new trial based on an allegation of newly discovered evidence that was not presented during the trial. Defendant claims that at the time of the transfer of the Stonecrest Development property in 2006 and thereafter, the developer did not comply with the Town of Keedysville Subdivision Ordinance. As argued by Defendant, that Ordinance provides that no lots may be subdivided or sold until a final plat of subdivision is approved by the Town Planning Commission and recorded in the land records of Washington County.

In this instance, the Stonecrest Development was subdivided by Plats 8292-95. As indicated by the approval signature of the Planning Commission Chairman shown on Plat 8295, the Planning Commission approved the subdivision on May 9, 2005. The final plat was recorded on May 20, 2005. With no other particulars stated in the Motion, Defendant's claim of newly discovered evidence is without merit.

NOW THEREFORE, it is this 21st day of September 2022, by the Circuit Court for Washington County, Maryland, hereby:

ORDERED, that Defendant Uncle Eddie's Brokedown Palace, LLC's Motion for New Trial be and is hereby DENIED.

Judge, Circuit Court for Washington County

RECEIVED
SEP 21 2022
KEVIN R. TUCKER, CLERK
Entered By ____________

cc: Counsel of Record
Justin Holder

IN THE CIRCUIT COURT FOR WASHINGTON COUNTY, MARYLAND

JEFFREY YOUNG *
Plaintiff
v. * Case No.: C-21-CV-20-371
JUSTIN HOLDER, *et al.*
Defendants *

ORDER

(Defendant's Motion for New Trial)

By Order dated September 21, 2022, this court denied Defendant Uncle Eddie's Brokedown Palace, LLC's Motion for New Trial. Following the denial, Plaintiff Jeffrey Young and Defendant Justin Holder filed responses to the original motion.

Confirming the court's previous denial of a new trial, it is this 13th day of October 2022, by the Circuit Court for Washington County, Maryland, hereby:

ORDERED and CONFIRMED, that Defendant Uncle Eddie's Brokedown Palace, LLC's Motion for New Trial is DENIED.

Judge, Circuit Court for Washington County

cc: Counsel of Record
Justin Holder

Entered: Clerk, Circuit Court for
Washington County, MD
October 13, 2022

IN THE CIRCUIT COURT OF MARYLAND FOR WASHINGTON COUNTY

JEFFREY YOUNG *
*
Plaintiff *
v. * CASE NO.: C-21-CV-20-000371
*
JUSTIN HOLDER, Et Al *
*
Defendant(s) *

* *

JUNE 7th, 2022 PRE - TRIL "RED HERRING" BRIEF AND OBJECTION

COMES NOW Defendant, Justin Kyle Holder, in proper person, and files this June 7th, 2022 Pre - Trial "Red Herring" Brief and Objection, and for reasons states:

OVERVIEW

1. "This case has spawned some red herrings which the parties and the Chancellor have dropped across an essentially simple trail of fact and controlling law." *Mayor and Council of Rockville v. BROOKEVILLE TURNPIKE CONSTRUCTION COMPANY, INC.*, 228 A.2d 263, 246 Md. 117 (1967).
2. "THE COURT: My question is once, once the government decides to build a neighborhood over a public way isn't the public way gone? You don't need to answer that right now but I want you to think about it." Defendant responded "MR. HOLDER: I have been…." ***See Exhibit 1 - March 11th, 2022 Honorable Judge Andrew Wilkinson Introduces the "Red Herring"*** attached hereto and incorporated herein by reference.
3. In a March 24th, 2022 hearing in case C-21-CV-21-000420 Honorable Judge Andrew Wilkinson again introduced the "Red Herring" asking Justin Holder"

> "So, is it your position in this litigation that if a lane once existed but it gets shut down either disuse [sic], government says we're not using it anymore and then a neighborhood gets built right over top of it, that the lane still exist and you get to use it?", see ***Exhibit 2 - March 24th, 2022 Discussion of Honorable Judge Wilkinson's "Red Herring"*** attached hereto and incorporated herein by reference.

Justin K. Holder

Pro se Litigator

308 W. Chapline St.
Sharpsburg, MD 21782
t: (240) 356-2008
holder2004@Gmail.com

4. After some discussion on March 24th, 2022, Honorable Judge Andrew Wilkinson request Justin Holder clarify the law as it relates to the "Red Herring" and the dispute:

> "THE COURT: So, when government puts a neighborhood on top of a road, the road still exists and all it takes is one citizen to say I want to drive my car through there it means, and I know not in this case, but it means the Selbys have to take down their fence, forget the forest conservation easement, cut down those trees because I issued [sic], I filed a Writ of Mandamus you government must open that road. You have no discretion" *Id*

5. Justin Holder responded to the Honorable Judge Andrew Wilkinson on March 24th, 2022 in absolute terms:

"MR. HOLDER: Sure because [it's] the law's not status quo. The law is a constitution in the 14th Amendment and everybody has rights"*Id*[1]

6. The Court Seemingly accepted Justin Holder's Legal Grounds and Authorities: "THE COURT: Okay. Okay." *Id;* however Justin Holder relies upon additional Grounds and Authorities cited below in this paper, and in ***Exhibit 3 - Extraordinary Circumstances of Public Abandonment Argument*** attached hereto and incorporated herein by reference.

---

[1] Public Local Law - 7-404. Same; by setting out fences:
"(a) ***Survey.*** Upon complaint of 1 or more taxpayers of the county to the County Commissioners of any person having encroached upon or obstructed the county roads by setting out fences, or hauling or throwing obstructions on the roads, the County Commissioners **shall direct that a survey of the road be performed** and the correct location of the center line be ascertained.

(b) ***Order.*** After marking with stakes the outside lines of the road as originally laid out, the **Director shall report to the County Commissioners, at their next meeting**, the name of the person who has encroached upon with fences or otherwise obstructed the road. The **County Commissioners shall then pass an order notifying that person to set back the fences** so as to give to the road its legal width, or to remove the obstructions, as the case may be, and place a copy of the order in the hands of the Sheriff of the county. The **Sheriff shall notify the person to whom the notice is directed**, by reading it to him, and return the order to the Commissioners, with the day and date of the giving of the notice to the person mentioned in it, endorsed upon it." (P.L.L., 1888, Art. 22, sec. 339; 1930, sec. 707; 1957 Code, sec. 517; 1880, ch. 311; 1970 ed. sec. 27-4; 1984, ch. 289; 1984 ed. sec. 7-104; 1991, ch. 211; 2009, ch. 450) [Emphasis Added]

"We have stated on numerous occasions that in the absence of a contrary contextual indication, the use of the word 'shall' is presumed to have a mandatory meaning, *Moss v. Director*, 279 Md. 561, 564-65, 369 A.2d 1011 (1977), and thus denotes an imperative obligation inconsistent with the exercise of discretion. *Bright v. Unsat. C. & J. Fund Bd.*, 275 Md. 165, 169, 338 A.2d 248 (1975)." *Johnson v. State*, 384 A.2d 709, 282 Md. 314 (1978).

7. Obvious and Known Law and/or facts of Public Record dispositive of the “Red Herring”:

a)All of the deeds to Stonecrest Neighborhood Residents clearly state “SUBJECT TO AND TOGETHER WITH all covenants, easements, rights of way, and restrictions of record applicable thereto”;

b) Plat 8292 AND 8293 at Note 2 state: “NO PERMANENT STRUCTURES, FENCES, TREES OR SHRUBS ARE PERMITTED WITHIN STORM DRAIN, WALL MAINTENANCE AND ACCESS EASEMENTS. A NOTE IS TO BE PLACED ON ANY DEED OF CONVEYANCE”;

c) Plat 8294 at Note 4 states: “THIS PLAT AND SURVEY WERE PREPARED WITHOUT THE BENEFIT OF A TITLE REPORT (NONE FURNISHED0 AND THEREFORE MAY NOT NECESSARILY INDICATE ALL ENCUMBRANCES ON THIS PROPERTY”;

d)Plat 8292 at Note 5 states: “WATER, DRAINAGE, SWM, WALL MAINTENANCE AND ACCESS EASEMENTS, NO PERMANENT STRUCTURES, FENCES, TREES, OR SHRUBS ARE PERMITTED WITHIN EASEMENTS. A NOTE IS TO BE PLACED ON ANY DED OF CONVEYANCE.”;

e) Md Environmental 4-215(a)(1) "Any person who violates any provision of this subtitle or any regulation or stormwater management plan adopted or approved under this subtitle is guilty of a misdemeanor and upon conviction in a court of competent jurisdiction is subject to a fine not exceeding $10,000 or imprisonment not exceeding 1 year or both for each violation with costs imposed in the discretion of the court."

f) Article III section 40 of the Maryland State Constitution: “The General Assembly shall enact no Law authorizing private property to be taken for public use without just compensation, as agreed upon between the parties, or awarded by a jury, being first paid or tendered to the party entitled to such compensation.”;

Justin K. Holder

Pro se Litigator

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g) The 5th Amendment of the United States Constitution "..., nor be deprived of life, liberty, or property, without due process of law; nor shall private property be taken for public use, without just compensation.";

h) Article 24 of the Maryland State Declaration of Rights "That no man ought to be taken or imprisoned or disseized of his freehold, liberties or privileges, or outlawed, or exiled, or, in any manner, destroyed, or deprived of his life, liberty or property, but by the judgment of his peers, or by the Law of the land *(amended by Chapter 681, Acts of 1977, ratified Nov. 7, 1978)*.";

i) Defendant Justin Holder has made an exhaustive good faith search of the "paper vision" computer in the Land Records Room of the Washington County Court House, reviewing all Town and County Ordinance, and Justin Holder has not located an Ordinance abandoning the Public Rights to the Road depicted on the 1936 J.B. Ferguson Atlas of Public roads that also hangs in the Land Records Room of the Courthouse, allegedly encumbering "Parcel 3" in the instant Complaint;

j) Only in the most exceptional cases where property owners have built homes over both ends of a street has a Court even considered an *estoppel in Pais* of Public Rights, and the Public is not a party to the instant litigation if Plaintiff is asserting an *Estoppel in Pais* against the Public. see *Baldwin v. Trimble*, 85 Md. 396; and

k) This instant case revolves around 2 white vinyl fences erected in a Storm Water Easement illegally, (Selby and Morral) within 3 years of the instant litigation being brought to issue. There is no merit to an *Estoppel in Pais* in the instant case.

8. The Court has scheduled a Pre - Trial Conference on June 7th, 2022 and the Defendant relied on the March 24th, 2022 discussion of the "Red Herring" by Judge Andrew Wilkinson. On March 31st, 2022 discovery closed in the instant case. The pleading's in the instant case make no mention of any Public Rights. If the Court intends to hear evidence on the same, Defendant(s) will be highly prejudiced and unprepared for trial.

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GROUNDS AND AUTHORITIES - CLOSING OF A PUBLIC STREET

The Court of Appeals has long held that “"the closing of a street, and the conveyance of the [municipality's] interest in the street solely for the private benefit of another, is not within the legislative body's power…[such a conveyance]…required the Town …, a municipal corporation, to make an affirmative determination via an ordinance before conveying a portion of a public street…" *Inlet Associates v. Assateague House.,* 313 Md. at 431, 545 A.2d at 1305 and required “intention that the city council act upon municipal affairs through ordinances when performing its legislative function” *Id.* at 430, 545 A.2d at 1304. Article 23A, § 2(b)(24), 'namely that 'a determination that there is no longer any public need for the street is requisite….' *Inlet Assocs.,* 313 Md. at 431, 545 A.2d at 1305. “Because the municipal corporation conveyed the street bed via a resolution, rather than an ordinance, we held ineffective the Town…'s attempted conveyance of the street bed.” *South Easton Neighborhood Ass'n, Inc. v. Town of Easton,* 876 A.2d 58, 387 Md. 468 (2005) . The solely private benefit of its use “vitiated the entire transaction.” *Perellis v. Mayor of Balt.,* 190 Md. 86, 92-95, 57 A.2d 341, 344-45 (1948). The authority to dispose of Public Property has been squarely in the hands of the legislature since the Constitution was adopted demanding separation of powers:

> "The general rule as to alienability of municipally held property was clearly stated in *Montgomery County v. Maryland-Washington Metropolitan District,* 202 Md. 293, 96 A.2d 353 (1953), where it was said at p. 303:
>
> 'A distinction is frequently drawn between property held by a county[2] in its proprietary [or business] capacity and that held by it in its governmental capacity. Property which is held in a governmental capacity or is impressed with a public trust, cannot be disposed of without special statutory authority.'

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[2] In this State a "county" (as well as a city or town) is considered to be a "municipal corporation." See *Neuenschwander v. Wash. San. Com.,* 187 Md. 67, 48 A.2d 593 (1946).

> See also 10 McQuillin, *Municipal Corporations,* § 28.55 (3rd ed.); 2 Dillon, *Municipal Corporations,* § 1188 (5th ed.). There can be little doubt that the lot in question is impressed with a public trust. Cf. *Mayor & C.C. of Baltimore v. Peabody Institute of Baltimore,* 175 Md. 186, 200 Atl. 375 (1938).
>
> It is equally clear that property held as a public trust may not be privately acquired by adverse possession. See *Town Com'rs of Centreville v. County Com'rs of Queen Anne's County*, 199 Md. 652, 87 A.2d 599 (1952); *Brady v. Mayor & C.C. of Baltimore,* 130 Md. 506, 101 Atl. 142 (1917); *Bond v. Murray,* 118 Md. 445, 84 Atl. 655 (1912); *Cushwa v. Burgess & Com'rs of Williamsport,* 117 Md. 306, 83 Atl. 389 (1912); 1 M.L.E., *Adverse Possession,* § 6. See also 4 Tiffany, *Real Property* (3rd ed.), § 1170; 1 Am.Jur., *Adverse Possession,* § 18; 2 C.J.S., *Adverse Possession,* § 14. While it was conceded that the town had never exercised any control over the lot, the use by the plaintiffs was not a use for the benefit of the public. See *Centreville v. Queen Anne's County, supra,* at p. 656. Under the circumstances in this case, it is not possible for the plaintiffs to acquire the lot in question by adverse possession. It may be that the town could obtain authority to sell the lot to the plaintiffs, but that is a matter for the legislature to decide, not the courts."
>
> *Messersmith v. Riverdale*, 164 A.2d 523, 223 Md. 323 (1960).

In Exceptional cases the Court has found *Acts in Pais Estoppel* too run against a city or municipality, but it is not at all favored:

> "The Court held that in Maryland encroachment on a highway is a public nuisance 'which can never grow by prescription into a private right' and then adopted the views of Judge Dillon set forth in 2 Dillon, *Mun. Corp.* (2nd Ed.), Sec. 433, that in cases of 'actual and notorious *abandonment* of the highway by the public' justice may require that an equitable estoppel ought to be asserted against the public in favor of individuals. The Court further said (p. 403):
>
> 'In that event, such cases [of abandonment], as observed by Judge Dillon, `will form a law unto themselves,' and will `not fall within the legal operation of limitation enactments. * * * `There is no danger,' he continues, `in recognizing the principle of an *estoppel in pais* as applicable to such cases, as this leaves the Court to decide the question, not by the mere lapse of time, but by all the circumstances of the case, to hold the public estopped or not, as right and justice may require.'
>
> 'The Court concluded that the owner of the fee, subject to the easement, had a full and merchantable title because the easement had been obviously and notoriously abandoned and the street had been physically closed with the acquiescence of the City for so long a time that innocent parties had been led to assume it was no longer a highway and had made permanent improvements on it.

> The theory of law advocated by Judge Dillon and adopted by the Court in the *Baldwin* case has been severely criticized and many courts have refused to follow it.'
>
> ***
>
> The Court said that the mere fact of long-continued and uninterrupted occupation of dedicated municipal land gave rise to no necessary presumption of abandonment by the municipality and concluded that 'we do not think this is a case for the application of the doctrine of an equitable estoppel' and the ultimate basis for this finding would seem to have been that there had been no abandonment."

Mayor of Baltimore v. Chesapeake, 197 A.2d 821, 233 Md. 559 (1964).

CONCLUSION

The Defendant respectfully objects to the Honorable Judge Wilkinson's "Red Herring" as inappropriate and unfounded in fact and law. If the Court or Plaintiff contend an E*stoppel in Pais* is to run against the Public, then the Public 'writ large must have their day in Court. The Doctrine of Public Trust and Article VI of the Maryland State Declaration of Rights demand that the Public appear to avail themselves of those rights, or a trustee is appointed by the Honorable Court to protect the rights held by the Public in trust for its citizens. The Defendant would respectfully protest Honorable Judge Andrew Wilkinson's introduction of the "Red Herring" as an irresponsible prevision of justice and the constitution itself. The separation of powers prescribed by the United State's and Maryland Constitutions place the decision to repair or abandon a Public Road squarely upon the legislature. This Honorable Court must take no cognizance of the issue, or be caught pre - empting the legislature outside of its obvious and known jurisdiction.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 28th day of May, 2022, a copy of the foregoing June 7th, 2022 Pre - Trial "Red Herring" Brief and Objection was served via the MDEC system to :

Edward Kuczyński, Esq.,
Kevin Karpinski, Esq.,
Talley Kovacs, Esq.,
Peter Rogers, Esq.,
R. David Pembroke, Esq.,
Brandy Peeples, Esq.,
Robert Kline, Esq.,
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IN THE CIRCUIT COURT OF MARYLAND FOR WASHINGTON COUNTY

JEFFREY YOUNG

Plaintiff

v. CASE NO.: C-21-CV-20-000371

JUSTIN HOLDER, Et Al

Defendant(s)

* *

OBJECTION TO MAY 11th, 2022 ORDER (Denial of Motion To Dismiss Failure to State a Claim) - Rule 2-517(c)

COMES NOW Defendant, Justin Kyle Holder, in proper person, and files this Defendant's Objection to May 11th, 2022 Order (Denial of Motion To Dismiss Failure to State a Claim) - Rule 2-517(c), and for reasons states:

The Defendant Respectfully Objects to the Courts Order Denying the Defendant's **UNOPPOSED** "Motion to Dismiss - Failure to State a claim" as clear error or incompetence in the law. The Defendant files this objection to preserve his rights on Appeal. This Honorable Court is not above the law and can not pre-empt the legislature.

GROUNDS AND AUTHORITIES IN SUPPORT OF THE DEFENDANT's ALLEGATIONS

The Plaintiff's Complaint is totally deficient as a matter of law in that:

a) a "justifiable controversy"[1] CAN NOT be established by the four corners of the pleading to afford Plaintiff relief in Declaratory Judgement MD. Courts and Judicial Proceedings Code Ann. § 3-409(a); and

---

[1] See *Hatt v. Anderson*, 297 Md. 42, 45–46, 464 A.2d 1076, 1078 (1983); *Kirkwood v. Provident Savings Bank*, 205 Md. 48, 106 A.2d 103 (1954); *Master v. Master*, 223 Md. 618, 166 A.2d 251 (1960); *Planning Commission v. Randall*, 209 Md. 18, 120 A.2d 195 (1956); *Tanner v. McKeldin*, 202 Md. 569, 97 A.2d 449 (1953); *Hammond v. Lancaster*, 194 Md. 462, 71 A.2d 474, cert. denied, 339 U.S. 908, 70 S.Ct. 563, 94 L.Ed. 1336 (1950).

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b) the record owner and outstanding claims being asserted are not stated as required by the legislature in the Quiet Title Act - MD. Real Property Code Ann. § 14-108 and § 14-601 *et seq*.

MD. Real Property Code Ann. § 14-108 (b) "Any person who appears of record, or claims to have a hostile outstanding right, shall be made a defendant in the proceedings.", see *Estate of Zimmerman v. Blatter*, 183 A.3d 223, 458 Md. 698 (2018).

MD. Real Property Code Ann. § 14-606(2)(ii) "If the title is based on adverse possession, the specific facts constituting the adverse possession"; and (3) "The adverse claims to the title of the plaintiff against which a determination is sought". See also *Md. Rule 12-804 - Complaint to Quiet Title.*

MD. Real Property Code Ann. § 14-608(a) "The plaintiff shall name as defendants in an action under this subtitle the persons having adverse claims to the title of the plaintiff that are of record or known to the plaintiff or reasonably apparent from an inspection of the property against which a determination is sought." and (b) " If the plaintiff admits the validity of any adverse claim, the plaintiff shall state the admission in the complaint." See also *Md. Rule 12-804 - Complaint to Quiet Title.*

MD. Real Property Code Ann. § 14-616(b) "This section does not authorize service by publication on any person named as an unknown defendant who is in open and actual possession of the property.". See also *Md Rule 12-808(b)(2) - Process.*

MD. Real Property Code Ann. § 14-619 (a) "A judgment in an action under this subtitle does not affect a claim in the property or part of the property of any person who was not a party to the action, if, at the time the action was commenced: (1) The claim was of record; or (2) The claim was actually known to the plaintiff or would have been reasonably apparent from an inspection of the property."

The Court's May 11th Order specifically denied the Defendant's **UNOPPOSED** "Motion to Dismiss - Failure to State a Claim", **as a matter of law.** The Defendant did not introduce any facts outside the record, there was no opposition or replies from other parties who introduced facts outside the record, and the the four corners of the Court's Order do not cite any facts outside the record. Therefore the Appellate will review the Court's Order as a matter of law on the four corners of the Complaint:

> "In Maryland, contrary to federal practice, dismissals for failure to state a claim are not limited to those cases in which 'it appears beyond doubt that the plaintiff can prove no state of facts in support of his claim which would entitle him to relief.' *Conley v. Gibson*, 355 U.S. 41, 45-46, 78 S.Ct. 99, 102, 2 L.Ed.2d 80, 84 (1957) (footnote omitted). See J.A. Lynch, Jr. & R.W. Bourne, Modern Maryland Civil Procedure § 6.1, at 342-47 (1993) (distinguishing between pleading requirements in Maryland and federal practice); P.V. Niemeyer & L.M. Schuett, Maryland Rules Commentary 161 (2d ed.1992) (same); P.M. Sandler & J.K. Archibald, Pleading Causes of Action in Maryland § 1.1, at 2 (2d ed.1991) (same). Instead, when drafting a Maryland circuit court complaint, it is the responsibility of counsel to distill from the client's narrative and any other relevant information acquired by investigation a concise statement of facts that will identify for the professional reader, be it adverse counsel or the court, the cause of action that is being asserted. That is the essence of 'thinking like a lawyer.'
>
> ***
>
> When setting forth below the material allegations of the amended complaint, we are mindful of the following rules:
>
> 1. Well pleaded allegations are accepted as true for purposes of the motion to dismiss, *Sharrow v. State Farm Mut. Auto. Ins. Co.*, 306 Md. 754, 768, 511 A.2d 492, 499-500 (1986);
> 2. The inferences most favorable to the plaintiff are drawn from well pleaded facts, *id.*; and
> 3. '[A]ny ambiguity or want of certainty in [the] allegations must be construed against the pleader.' *Read Drug & Chem. Co. v. Colwill Constr. Co.*, 250 Md. 406, 416, 243 A.2d 548, 555 (1968)."
>
> *Manikhi v. Mass Transit*, 758 A.2d 95, 360 Md. 333 (2000)

"When ruling on a motion to dismiss, 'consideration of the universe of `facts' pertinent to the court's analysis of the motion are **limited generally to the four corners of the complaint and its incorporated supporting exhibits, if any.**' *Converge Servs. Grp., LLC* *v. Curran,* 383 Md. 462, 475, 860 A.2d 871, 879 (2004)." [Emphasis Added] *D'AOUST v. Diamond*, 36 A.3d 941, 424 Md. 549 (2012), see also *RRC v. BAA*, 994 A.2d 430, 413 Md. 638 (2010).

CONCLUSION

Plaintiff's Complaint as a matter of law does not state a justifiable controversy within the prevue of the Declaratory Judgement Act. Plaintiff's Complaint as a matter of Law does not comply with the Quiet Title Statute. The Court has erred in judgement, and demonstrated grave incompetence in abeyance of the law in preceding with a bench trial in the instant case. The Court's bias is as obvious and known as the jurisdictional constraints set by the Legislature the Court has blatantly ignored in its May 11th, 2022 Order.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 11th day of May, 2022, a copy of the foregoing Defendant's Objection to May 11th, 2022 Order (Denial of Motion To Dismiss Failure to State a Claim) - Rule 2-517(c) was served via the MDEC system to :

Edward Kuczyński, Esq.,
Kevin Karpinski, Esq.,
Talley Kovacs, Esq.,
Peter Rogers, Esq.,
R. David Pembroke, Esq.,
Brandy Peeples, Esq.,
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IN THE CIRCUIT COURT OF MARYLAND FOR WASHINGTON COUNTY

JUSTIN HOLDER

Plaintiff

v.

SCOTT MORRAL, Et Al

Defendant(s)

CASE NO.: C-21-CV-21-000420

* *

LINE - GOUNDS & AUTHORITY IN SUPPORT OF ORAL ARGUMENT

The Plaintiff, *Pro Se*, Justin K. Holder, files this line and says;

On March 24th, 2022 the Plaintiff, *Pro Se* enjoyed the pleasure of arguing in front of Honorable Andrew Wilkinson. The Plaintiff would have cited to the reported opinions if he was prepared to argue Public intent to abandon Harris Lane, based solely upon recording of Plat 8292 which was only raised by the Court, not the Defendants Motion. The Plaintiff respectfully request the Court excuse his oversight, and consider the law Plaintiff relies on.

To prove that the Town/County abandoned Harris Lane, the Defendants must show "an intention to abandon, and an overt act, or an omission to act, by which such intention is carried into effect." *Montgomery Cnty. v. Bhatt,* 446 Md. 79, 96 (2016) (citation omitted). The overt act, or omission, "carries the implication that the owner does not claim or retain any interest in the subject matter." *Catonsville Nursing Home, Inc. v. Loveman,* 349 Md. 560, 581 (1998). An affirmative act "is essential." *United Fin. Corp.,* 172 Md. at 145.

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It is "well-established" that the `"common right of way' cannot be lost by the attempted adverse possession of a private individual." *Bhatt,* 446 Md. at 91 (quoting *Sieling v. Uhl,* 160 Md. 407, 418 (1931). However, the Court of Appeals has clarified:

> "In exceptional cases, where the Court found that right and justice demanded it, there has been recognition in Maryland that private ownership has been acquired of property held by a municipality in a governmental capacity (and so in trust for the public) where there has been *actual and notorious abandonment* of the property by the municipality **for at least as long as the legal period of prescription** which has induced action by the person claiming ownership, the result of which it would be unjust and inequitable to disturb."*Gregg Neck Yacht Club, Inc. v. Cnty. Comm'rs of Kent Cnty.*, 137 Md. App. 732, 771 (2001) (quoting *City of Baltimore v. Chesapeake Marine Ry.*, 223 Md 559 572 (1964)) (Emphasis in Original and added in bold)

Likewise, a municipal corporation may be estopped from asserting rights against a person "who has in good faith relied upon such conduct, and has been led thereby to change his position for the worse and who on his part acquires some corresponding right, either of property, of contract, or of remedy." *Id.* at 772 (quoting *Knill v. Knill,* 306 Md. 527, 534 (1986)). Equitable estoppel generally requires: "(1) voluntary conduct or representation; (2) reliance; and (3) detriment." *Id.* at 773. Equitable estoppel does not require any wrongful conduct on the part of the party being estopped, only that the conduct caused a prejudicial change in the conduct of the part of the claimant. *Id.*

The "burden of proving abandonment rests on the one who asserts or relies on it." *Chevy Chase Land Co. v. United States,* 355 Md. 110, 161 (1999) (citation omitted). Further, abandonment concerns "a question of fact to be determined by the finder of fact," *Maryland & P.R. Co. v. Mercantile-Safe Deposit & Tr. Co.,* 224 Md. 34, 41 (1960); *see also Wagner,* 135 Md. at 694 (holding that abandonment "is a **question of fact for the jury, and not of law for the court**") [Emphasis Added}. Likewise, "`whether or not an estoppel exists is a question of

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fact to be determined in each case.'" *Gregg Neck Yacht Club,* 137 Md. App. at 773 (quoting *Travelers Indem. Co. v. Nationwide Constr. Corp.,* 224 Md. 401 (1966))

In *Gregg Neck Yacht Club,* the Court relied on *United Finance Corp.* to delineate how dedicated property may be abandoned:

> "An **abandonment does not result from mere nonuser,** after a dedication is complete, **unless a statute so provides**, or from misuser, or delay in its improvement and use, or by a mere temporary abandonment of such use. . . . On the other hand, if the nonuser is accompanied by user by the dedicator or by third persons, inconsistent with the public use, the nonuser may show an abandonment. *And a municipality may relinquish its control over property dedicated to it for public use by an abandonment thereof, and this is so notwithstanding prescription does not run against a municipality as to land granted to it for the use of the public. Id.* at 771-72 (italicized emphasis in original; bolded emphasis added) (quoting *United Fin. Corp.,* 172 Md. at 145). Precedents further explain the two ways a governmental entity may relinquish control over dedicated property: (1) "an explicit renunciation of the purpose to give effect to the condemnation, which in the case of a municipality would be by a repeal of the ordinance under which the proceedings were instituted"; and (2) "**deduced from acts *in pais.*"** {Emphasis Added] *Wagner,* 135 Md. at 694. In either case, "those acts [must] constitute sufficient evidence of an intention on the part of the condemning corporation to abandon the proceeding." *Id.*

Thus the Plaintiff kindly reminds the Honorable Court the burden is on "the [d]efendants [who] must show [the jury] that this is one of the `exceptional cases' where `right and justice demand' public property be restored to a private owner[.]" *City of Baltimore v. Chesapeake Marine Railway Co*., 233 Md. 559, 572 (1964)

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 24th day of March, 2022, the foregoing Line - Grounds & Authority in Support of Oral Arguments was served via MDEC and thus served electronically upon all counsel/parties of record, severed via US Mail to all other counsel/ parties requiring service not served by MDEC;

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IN THE CIRCUIT COURT OF MARYLAND FOR WASHINGTON COUNTY

JEFFREY YOUNG
Plaintiff
v.
JUSTIN HOLDER, Et Al
Defendant(s)

CASE NO.: C-21-CV-20-000371

* *

OBJECTION TO APRIL 14th, 2022 ORDERS - Rule 2-517(c)

COMES NOW Defendant, Justin Kyle Holder, in proper person, and files this Defendant's Objection to April 14th, 2022 Orders in accordance with Rule 2-517(c), and for reasons states:

ORDER 1 - Ownership of the Rail-bed

Defendant Justin Holder objects to the April 14th, 2022 Order from the Court denying Defendant Holders request to revise its March 3rd, 2022 order and "…modify the word 'owned' at paragraph 2 in the Courts March 3rd, 2022 Order (Discovery from Maryland DNR) to a less prejudicial word that does not tend to show bias of Defendant's claimed right and interest in the instant litigation."

The Court declined to do such a thing and the Defendant is only left to believe the Court has already made its mind up without so much as considering the Defendant's evidence, facts and experts in support of his claimed right and interest.

ORDER 2 - Morral Protective Order

Defendant Justin Holder objects to the April 14th, 2022 Order from the Court denying Defendant Holders request to revise its March 3rd, 2022 Order denying Defendant

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Justin Holder's request to vacate the September 28th, 2021 Protective Order of Christine Morral entered in clear error. The clear error was acknowledged by the Court itself on March 11th, 2022, Honorable Andrew Wilkinson stating: "And that resulted from the use of deposition in one case to try to bleed over into the defamation case and the Court put a stop to that. So, could I get the video - If the video exists and there's photographs that exist they may be relevant. And should he get it? **Yes, probably.**" [Emphasis Added] see ***Exhibit 1 - Objection to April 7th, 2022 Orders - Rule 2-517(c)*** attached hereto and incorporated herein by reference.

The Defendant requested that the Court preclude the witness and her statements from testifying at trial in his Motion to revise, and the court further denied the Defendant a fair and impartial trial when it denied the alternative requested.

FAITH IN THE COURT

The Defendant refuses to lose faith in the Court and our constitution. The Court accused the Defendant in case C-21-Cv-21-000420 of abuse of discovery, the Defendant denies the allegations and alleges the Court has abused its discretion to prejudice and bias the Defendant in obtaining a fair trial and justice in the instant case. The Defendant alleges further the Court is more interested in hiding the malfeasant actions of the crooked County Commissioners, Town of Keedysville and extortionist Maryland DNR than its obligations under Article IV of the Maryland Constitution. The Defendant demands a jury trial to decide the facts so the Court itself can not abuse its discretion and error in judgement to obtain the outcome it desires for its friends in government. Separation of powers is essential to a healthy democracy, and if the Circuit Court is willing to shield the evil actors in government from their bad behavior, that behavior will continue to grow and fester as its rots our democracy from the inside out. All is NOT lost, and the lives of millions of Americans who have fought and died for our constitution, will NOT have done so in vein.

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The Defendant respectfully objects to the orders of this Court on April 14th, 2022. The Court is past the point of no return in the perception of granting the Defendant a fair and unbiased trial. Please for the love of our great constitution allow a jury of my peers to decide the facts, and I prey the Court will have the guts to decide the law, as harsh as it may be!

Respectfully submitted,

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 14th day of April, 2022, a copy of the foregoing Defendant's Objection to April 14th, 2022 Orders in accordance with Rule 2-517(c)was served via the MDEC system to :

Edward Kuczyński, Esq.,
Kevin Karpinski, Esq.,
Talley Kovacs, Esq.,
Peter Rogers, Esq.,
R. David Pembroke, Esq.,
Brandy Peeples, Esq.,
Robert Kline, Esq.,
Justin Holder, *Pro Se*

Justin K. Holder, *Pro Se*

Justin K. Holder

Pro se Litigator

308 W. Chapline St.
Sharpsburg, MD 21782
t: (240) 356-2008
Jholder2004@Gmail.com

IN THE CIRCUIT COURT OF MARYLAND FOR WASHINGTON COUNTY

JEFFREY YOUNG

Plaintiff

v. CASE NO.: C-21-CV-20-000371

JUSTIN HOLDER, Et Al

Defendant(s)

* *

OBJECTION TO APRIL 15th, 2022 ORDER - Rule 2-517(c)

COMES NOW Defendant, Justin Kyle Holder, in proper person, and files this Defendant's Objection to April 15th, 2022 Order in accordance with Rule 2-517(c), and for reasons states:

ORDER (3) - JURY TRIAL

Defendant Justin Holder objects to the April 15th, 2022 Order from the Court declaring "The court has determined that the Plaintiffs Complaint and Petition deal with questions that are only within the purview of a court and are not within the purview of a jury". The Plaintiff's petition at ¶4 brings the action under MD. Courts and Judicial Proceedings Code Ann. § 5-103 (2020) "Adverse Possession", at ¶5 under MD. Courts and Judicial Proceedings Code Ann. § 3-402 (2020) "...to settle and afford relief from uncertainty and insecurity with respect to rights, status, and other legal relations..." and MD. Courts and Judicial Proceedings Code Ann. § 3-406 (2020) "...have determined any question of construction or validity arising under the instrument, statute, ordinance, administrative rule or regulation, land patent...". MD. Courts and Judicial Proceedings Code Ann. § 3-404 (2020) "The fact that a proceeding is brought under this subtitle does not affect a right to jury trial which otherwise may exist." and most certainly does exist!

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“Moreover, the General Assembly has no authority to create a statutory equitable action to determine ‘legal rights’ or resolve legal disputes and thereby circumvent a party's right of trial by jury.” *Martin v. Howard County*, 709 A.2d 125, 349 Md. 469 (1998). "

> “In *McCoy v. Johnson, supra,* 70 Md. 490, 17 A. 387, the plaintiff filed a bill in the Circuit Court of Baltimore City (an equity court), against the persons holding 'paper title' to a strip of land, for a decree declaring that the plaintiff had acquired title to the strip of land by adverse possession. The Circuit Court dismissed the bill, and this Court affirmed, holding that the plaintiff must have "`clear, legal, and equitable title,'" coupled with possession, to bring an equitable action. 70 Md. at 492, 17 A. at 387. With regard to the plaintiff's reliance on Ch. 478 of the Acts of 1888, this Court acknowledged that the "very broad" language of the statute appeared to authorize the action, but the Court held (70 Md. at 492-493, 17 A. at 387):
>
> > "[I]t is clear the Legislature has no power to confer on Courts of equity the jurisdiction to determine legal rights, in regard to which Courts of law exercise exclusive jurisdiction. In such cases the Constitution guarantees to suitors the right of trial by jury, and this right the Legislature cannot abridge or take away. The Act of 1888, was borrowed, we find, word for word from the Code of the Indian Empire, but the British Parliament is not controlled, nor is its power limited, as is the power of the Legislature in this State, by a written Constitution. The jurisdiction then conferred by the Act of 1888, can only be exercised in regard to such matters as are properly cognizable by a Court of equity...."
> >
> > Although we have largely abolished the procedural differences between actions at law and actions in equity, the essential holding in *McCoy v. Johnson,* quoted above, remains viable. It is fully applicable to the relationship between causes of action created by the Legislature and the constitutional right to a jury trial.” *id* at 134.

See further *Green v. Wash. Sub. San. Comm'n*, 269 A.2d 815, 259 Md. 206 (1970) also a jury trial where *inter alia* the fact of abandonment was decided:

> “The appellants assert that the trial court erred in giving an instruction based on our holding in *Turner v. Washington Sanitary Comm.* 221 Md. 494, 158 A.2d 125 (1960). In that case we held that in a developing suburban area the right-of-way for a public highway extends not only horizontally over the surface of the land for the purpose of travel but also vertically below the surface of the roadbed for the purpose of laying sewer and water lines.”

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The "burden of proving abandonment rests on the one who asserts or relies on it." *Chevy Chase Land Co. v. United States,* 355 Md. 110, 161 (1999) (citation omitted). Further, abandonment concerns "a question of fact to be determined by the finder of fact," *Maryland & P.R. Co. v. Mercantile-Safe Deposit & Tr. Co.,* 224 Md. 34, 41 (1960); *see also Wagner,* 135 Md. at 694 (holding that abandonment "is a **question of fact for the jury, and not of law for the court**") [Emphasis Added] see further ***Exhibit 1 - Line - Grounds & Authorities in support of Oral Argument***[1] attached hereto and incorporated herein by reference.

The Plaintiff is not entitled to relief under MD. Real Property Code Ann. § 14-108 (2020), *McCoy v. Johnson, supra,* 70 Md. 490, 17 A. 387; see further ***Exhibit 2 - Second Amended Answer to Complaint*** at ¶77 "He must prove title in himself if the answer denies his title or if the defendant claims title adversely.... Complainant in a quiet title action must present clear or satisfactory proof of title to be entitled to relief;" [Emphasis Added] *Porter v. Schaffer*, 728 A. 2d 755, 767 - Md App(1999) citing 65 Am.Jur.2d *Quieting Title* (1972 & Supp.1998) at § 78. See further ***Exhibit 3 - Motion as Matter of Law Termination by Estoppel is Unavailable*** attached hereto; oppositions, replies and exhibits thereto, which are all incorporated herein by reference. Plaintiff has no equitable remedy as a matter of law!

Defendant Holder is aware that after the merger of law and equity in 1984 the Court may believe it has the authority and jurisdiction to commingle law and equity with disregard for facts and equity, the Court has erred. Equity entertains jurisdiction when a Plaintiff is in possession and has no remedy at law. Plaintiff Young has failed to invoke the equity jurisdiction in his Bill, nor does he have a right to equitable relief in *laches* as a

---

[1] Line filed in case C-21-CV-21-000420 where a jury trial was requested by Justin Holder. The parties with a cognizable interest in the claim and necessary to afford complete relief were joined, prior to the Court's allegedly unlawful dismissal of them. The Court has effectively stayed that case, and put it on the shelf with the alleged intention of deciding facts in the instant case that Defendant Holder has notoriously request a jury to decide!

Plaintiff in the instant case. Defendant Holder saw the writing on the walls, feels the strong head wind he litigates into and preys to *stare decisis* to move the Honorable Court from it's eschew thereof. If the Court can decide the case for Plaintiff without deciding any facts, then pardon my French[2] and please have at it!

> "It is said that the common law is susceptible of growth and adaptation to new circumstances and situations, and that the courts have power to declare and effectuate what is the present rule in respect of a given subject without regard to the old rule; and some attempt is made to apply that principle here. The common law is not immutable, but flexible, and upon its own principles adapts itself to varying conditions. *Funk* v. *United States,* 290 U.S. 371. **But here, we are dealing with a constitutional provision which has in effect adopted the rules of the common law, in respect of trial by jury, as these rules existed in 1791. To effectuate any change in these rules is not to deal with the common law, *qua* common law, but to alter the Constitution.** The distinction is fundamental, and has been clearly pointed out by Judge Cooley in 1 Const. Limitations, 8th ed., 124." [Emphasis Added]
>
> *Turner v. Wash. Sanitary Comm. supra,* 158 A. 2d 125 - Md (1960) citing *Dimick v. Schiedt,* 293 US 474 - Supreme Court 1935.

Respectfully submitted,

Justin K. Holder, *Pro Se*
308 West Chapline Street
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[2] *Acts in Pais* and *Laches* both originating in French common law "a party entitled to a right of way or other mere easement in the land of another may abandon and extinguish such right by *acts in pais,* and without deed or other writing***"*Laches* `is a defense in equity against stale claims…" *Purnell v. BEARD & BONE*, 38 A.3d 534, 203 Md. App. 495 (Ct. Spec. App. 2012) "In sum, we hold that: the evidence was sufficient do establish an easement of necessity or implication in favor of Beard & Bone across the property of the Purnells; the circuit court did not err in the location of the easement; that the easement was neither abandoned nor extinguished by adverse possession; and that Beard & Bone's claim was not barred by laches." *id* at 558.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 15th day of April, 2022, a copy of the foregoing Defendant's Objection to April 15th, 2022 Order in accordance with Rule 2-517(c)was served via the MDEC system to :

Edward Kuczyński, Esq.,
Kevin Karpinski, Esq.,
Talley Kovacs, Esq.,
Peter Rogers, Esq.,
R. David Pembroke, Esq.,
Brandy Peeples, Esq.,
Robert Kline, Esq.,
Justin Holder, *Pro Se*

Justin K. Holder, *Pro Se*

Justin K. Holder

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Jholder2004@Gmail.com

IN THE CIRCUIT COURT OF MARYLAND FOR WASHINGTON COUNTY

JEFFREY YOUNG *
*
Plaintiff *
v. * CASE NO.: C-21-CV-20-000371
*
JUSTIN HOLDER, *et* al.; *
*
Defendant(s) *

* *

OBJECTION - ARTICLE IV SECTION 23 OF THE MARYLAND CONSTITUTION

COMES NOW Defendant, Justin Kyle Holder, in proper person, and files this Objection- Article IV Section 23 of the Md. Cont., in accordance with Md. Rule 2-517 & 2-602(b), and request the Honorable Court render a decision, and in support states:

INTRODUCTION

This case was argued before Honorable Andrew F. Wilkinson on June 23rd - 25th, 2022. Defendant Justin Holder has not been served a final decision rendered by the Honorable Court in this instant 371 case. On May 9th, 2022 Honorable Andrew F. Wilkinson ordered in case C-21-CV-21-420 (said 420 case *inter alia* litigates interference/nuisance related to public rights not placed at issues by the instant 371 Complaint[1]) stating in part:

> ”The court believes the stay in this case is in the best interest of judicial economy and will consider lifting the stay after the conclusion of the matter *Young v. Holder*, C-21-CV-20-371, scheduled for trial in June 2022.”
>
> see ***Exhibit 1 - Order - 420-4.***

Justin K. Holder

Pro se Litigator

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---

[1] **THE COURT** [Honorable Andrew F. Wilkinson]:
“…And I’m looking at Mr. Holder’s letter of May 23, because I think it’s a nice encapsulation. I don’t know if you all have that in front of you. And I’m looking at the first four items that he listed…Let’s go to number 4. And I sort of rename it or redescribe it as whether there are roads, town roads, county roads, that affect parcel 2 or parcel 3 that may traverse over the Young property. Separate from a private easement, these are government held roads. To me, that is not relevant in the case that we are having two weeks from now. I will not hear evidence on public roads. And the reason is if there are roads owned by the county or the town, whether those roads are open for use, whether they should be re-opened, whether they still exist, is a legislative function of government. It is not right now a judicial function and therefore we will not be discussing roads.” See ***Exhibit 2 - C-21-CV-20-000371 - Pretrial hearing transcript pages 6 & 7*** at p. 6:8 - 7:24.

In case C-21-CV-20-430 there is an open Motion to alter or amend on the docket related to a stone survey monument (the "BQT Stone")[2] referenced at the end of the 3rd line of deed granted from David Hess to Samuel Cost on Sept. 10th, 1832 and recorded among the land records of Washington County, Maryland at Liber NN folio 520 (the "NN520" deed). The record in the instant 371 case reflects that the 2nd and 3rd lines of the NN520 deed are not in dispute. In an Aug. 2nd, 2022 hearing in case C-21-CV-20-430 (set for trial on Oct. 3rd, 2022) Benjamin Estes and Justin Holder both asserted no genuine dispute of fact exist related to the boundary (reflected in the record as the 4th through 8th lines on deed NN520) requesting the Honorable Court make a decision as a matter of law.[3] On March 24th, 2022 the court and Justin Holder discussed the NN520 boundary generally: "THE COURT: Whatever I decide is, is general *res judicata* in any other case." p. 36:12-13, and Defendant Holder continued discussing non mutual collateral *estoppel* and then requesting in closing:

> "MR. HOLDER: If we decided the [BQT] stone it would eliminate the need for expensive title experts [and] to drag my wife [to court] and cost her [thousands of dollars]. I mean, she has (unintelligible) I mean it's, it's, it's insane what they're doing to my wife. This is a war of attrition. There's no experts that will testify that that stone is not the [BQT] stone, Your Honor."

see *Exhibit 3 - March 24th, 2022 Hearing on Motion to Dismiss case C-21-CV-21-000420 pages 35 - 39*. The record reflects the experts (Messers Joliet and Nagel) agree as to the NN520 title line, and Mr. Estes knew the issue of the BQT stone was/has been litigated in the instant 371 case.

---

[2] The BQT Stone references a Bill *Quia Timet* Injunction filed by Justin Holder on May 10th, 2021 (Motion under Rule 2-211 filed on May 6th, 2021) into case C-21-CV-20-371, C-21-CV-20-430 and C-21-CV-21-130 (similar to Count V in case C-21-CV-21-420) that the Court affirm the BQT Stone marker at the end of the 3rd line of the NN520 deed has been found by Land Surveyor George Nagel. The Bill *Quia Timet* Injunction requested that if the Court would affirm the BQT Stone it would mitigate vexatious and costly litigation over the location of the NN520 deed (Cost/Keedy division lines 2-6) lines 2 through 8 which the record(s) in case 371 and 430 reflects are being litigated. Plaintiff Estes asserted the Bill *Quia Timet* Injunction should be treated as a Motion for Summary Judgement. See Generally *Exhibit 4 - Hearing Estes Motion to Dismiss March 11th, 2022 p. 10-11 19-20 and 52-54; Exhibit 5 - Hearing on Washington County Motion to Dismiss March 11th, 2022 p1-3* and the 371 case record.

[3] The records from the 8.2.22 hearing in case 430, and expert testimony in case 371 reflect Surveyor Frederic Frederick's deviation from title lines created the color of title Messers Estes (430) and Young (371) rely on in their adverse possession claims west of the 4th through 8th lines of deed NN520.

Justin K. Holder

OBJECTION and DECISION DEFENDANT REQUESTs RENDERED

In ***Exhibit 2 - C-21-CV-20-000371 - Pretrial hearing transcript pages 6 & 7*** at p. 6:8-23 the Court generally defines the 4 (now only 3[1]) issues to be litigated in the instant 371 case, 2 issues materially pertain to Defendant(s) position[4] in other litigation (case 430/420) that:

1) the 2nd and 3rd lines on the NN520 deed are located by the BQT stone "found" at the end of the 3rd and an iron pipe "found" at the beginning of the 2nd; and
2) Plaintiff Jeffrey Young can not meet his burden to be granted title by way of adverse possession to any land west of the 2nd and 3rd lines on deed NN520.

With all due respect, the Court's delay in rendering a decision[5] is causing Defendant(s) the undue burden and unfair prejudice of putting on the same case (with the same witnesses/experts related to the BQT stone and NN520 title lines) in case C-21-CV-20-430 and delaying/denying justice in case C-21-CV-21-420. This result is precisely the inequitable war of attrition Justin Holder feared, preying for relief in his May 12, 2021 Bill *Quia Timet*.

Respectfully submitted,

Justin K. Holder, *Pro Se*
308 West Chapline Street
Sharpsburg, Maryland 21782
(240) 356-2008

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[4] Other parties to this instant suit may be prejudiced by a decision under rule 2-602(b) excluding the 3rd issue (private easement), not apparently pertinent to any other ***pending litigation***. Plaintiff Young failed to challenge Defendant(s) claimed rights to pass through his "parcel 1" (as asserted in the Defendant's pleadings, specifically Justin Holder's 2nd Amended Answer at ¶41) in the instant 371 complaint, see MD. Real Property Code Ann. § 14-619(a), MD. Courts and Judicial Proceedings Code Ann. § 3-405 and *Williams v. Moore*, 137 A.2d 193, 215 Md. 181 (1957). Noting in Case C-21-CV-21-116 the Honorable Court has found on Summary Judgement that Defendant Morral's statements related to the easement are false, see ***Exhibit 6 - Sept 23rd 2021 Hearing record - Holder v Morral - 116 (p30-34).***

[5] **MD Cont. ART. IV SEC. 23.** "The Judges of the respective Circuit Courts of this State **shall** render their decisions, in all cases argued before them, or submitted for their judgment, within two months after the same shall have been so argued or submitted" (*amended by Chapter 523, Acts of 1980, ratified Nov. 4, 1980*) and (*emphasis supplied*).

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 26th day of August, 2022, a copy of the foregoing Objection- Article IV Section 23 was served via the MDEC system to :

PARTIES:

R. David Pembroke, Esq., Attorney for Plaintiff Jeffrey Young
Brandy Peeples, Esq., Attorney for Defendant Deena Holder
Robert Kline, Esq., Attorney for Defendant Uncle Eddies brokedown palace LLC
Justin Holder, *Pro Se* Defendant;

INTERESTED PARTIES:

Edward Kuczyński, Esq., Attorney for Town of Keedysville, Maryland,
Kevin Karpinski, Esq., Attorney for Washington County, Maryland,
Emily Vainieri, Esq., Attorney For Maryland Department of Natural Resources,
Peter Rogers, Esq., Attorney for Scott and Christine Morral,
Lesley Powell, Esq., Attorney for Olde Town Title,
Brian Maul., Esq., Attorney for Susan Selby,
Timothy Maloney, Esq., Attorney for Benjamin Estes.

Justin K. Holder, *Pro Se*

Justin K. Holder

Pro se Litigator

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holder2004@Gmail.com

IN THE CIRCUIT COURT FOR WASHINGTON COUNTY, MARYLAND

JUSTIN HOLDER *

Plaintiff

v. * Case No.: C-21-CV-21-420

SCOTT MORRAL, *et al.*

Defendants *

ORDER

(Plaintiff's Objection to Stay of Case)

This court has reviewed the Plaintiff's Objection to the May 3, 2022 order staying the case. The court believes the stay in this case is in the best interest of judicial economy and will consider lifting the stay after the conclusion of the matter Young v. Holder, C-21-CV-20-371, scheduled for trial in June 2022.

Therefore, it is this 9th day of May 2022, by the Circuit Court for Washington County, Maryland, hereby:

ORDERED, that Plaintiff's Objection to the May 3, 2022 order is denied. No pleadings or motions are to be filed, and no discovery is to occur, during the stay.

Judge, Circuit Court for Washington County

cc: Counsel and parties of record

Entered: Clerk, Circuit Court for
Washington County, MD
May 9, 2022

IN THE CIRCUIT COURT FOR WASHINGTON COUNTY, MARYLAND

JEFFREY YOUNG *
Plaintiff *
v. * **CASE NO. C-21-CV-20-371**
JUSTIN HOLDER, et al. *
Defendants *

TRANSCRIPT OF PROCEEDINGS

(Pre-trial Discussion)

Circuit Court
Hagerstown, MD
June 6, 2022 at 1:32 P.M.

Before:

The Honorable Andrew F. Wilkinson

Appearances:

R. David Pembroke, Esquire, attorney for Jeffrey Young, Plaintiff; and

Robert Kline, Esquire, attorney for Uncle Eddie's Broken Down Palace, Defendant; and

Justin Holder, pro se; Defendant.

Transcribed from electronic recording by:

Linde M. Cessna, Court Reporter
Circuit Court for Washington County, Maryland
The Court House
Hagerstown, Maryland 21740

do it to Mr. Kline where I may say, Mr. Kline, I got it. And that's the signal. Okay. Maybe we ought to move onto a different issue so you're not wasting time on an issue that you've already presented sufficient evidence on.

MR HOLDER: (Unintelligable) because I respect the Court's time so.

THE COURT: Okay, so, that's eight hours each side. So, let's talk about what I believe is going to be relevant for this case and what I think is not relevant so that we don't have to waste time on things that are not relevant. And I'm looking at Mr. Holder's letter of May 23, because I think it's a nice encapsulation. I don't know if you all have that in front of you. And I'm looking at the first four items that he listed. Number one, whether private easements have been abandoned. Number two, whether there has been adverse possession on parcel 3. Number three, whether there is title to parcel 3 one way or another, probably based on the deeds and number four, whether there are claims or clouds that are out there regarding public roads on the property.

I'll tell you that I re-numbered those to make more sense to me.

MR. HOLDER: Okay.

THE COURT: Not to be critical but just to re-number them for myself. So, I don't want to take them in order that he took them. But there are certainly some issues in those four that I think are at issue here. The Plaintiff's Complaint is to Quiet Title through Adverse Possession or by Deed and so Mr. Holder's number 2, that is adverse possession, that is absolutely at issue for our three-day trial. Mr. Holder's number 3, that to me is quiet title based on the deeds that everybody seems to hold. That is Mr. Holder's number 3, that is definitely as issue at trial. That is what the Plaintiff has complained about.

Let's go to number 4. And I sort of rename it or redescribe it as whether there are roads, town roads, county roads, that affect parcel 2 or parcel 3 that may traverse over the Young property. Separate from a private easement, these are government held roads. To me, that is not relevant in the case that we are having two weeks from now. I will not hear evidence on public roads. And the reason is if there are roads owned by the county or the town, whether those roads are open for use, whether they should be re-opened, whether they still exist, is a legislative function of government. It is not right now a judicial function and therefore we will not be discussing roads.

That brings us to the final issue that Mr. Holder

DIGITALLY SIGNED CERTIFICATE

I HEREBY CERTIFY that I reported verbatim by electronic device the proceedings in the matter of, *Jeffrey Young v. Justin Holder, et al.*, Case No. C-21-CV-20-371 in the Circuit Court for Washington County, on June 7, 2022, before the Honorable Andrew F. Wilkinson, Judge.

I further certify that the proceedings were transcribed by me to the best of my ability in a complete and accurate manner, and page numbers 1 through 43 constitute the official transcript of the proceedings.

In witness whereof, I have affixed my signature this 6th day of July, 2022.

Linde M. Cessna

Linde M. Cessna
Court Reporter

IN THE CIRCUIT COURT FOR WASHINGTON COUNTY, MARYLAND

JUSTIN HOLDER *
Plaintiff *
v. * **CASE NO. C-21-CV-21-420**
SCOTT MORRAL, et al. *
Defendants *

TRANSCRIPT OF PROCEEDINGS

(MOTION TO DISMISS SUSAN SELBY)

Circuit Court
Hagerstown, MD
March 24, 2022 at 10:35 a.m.

Before:

The Honorable Andrew F. Wilkinson

Appearances:

Justin Holder, pro se, Plaintiff; and

Brian Maul, Esquire, attorney for Susan Selby, Defendants.

Transcribed from electronic recording by:

Linde M. Cessna, Court Reporter
Circuit Court for Washington County, Maryland
The Court House
Hagerstown, Maryland 21740
240-313-2564

THE COURT: It was an unfair question. I'll figure it out. Do you understand my concern though?

MR. HOLDER: Uh, 211-8(c) If the restriction is not granted for the benefit of any dominant tract is enforceable with respect to the servient land, both at law and in equity, as an easement in gross, and - -

THE COURT: The servient land. Say that again.

MR. HOLDER: For the ben - - If it's not granted for the benefit of a dominant tract it is enforceable in respect to the servient land, which will be Morral and Selby. They are the servient of the easement correct. Both in law and equity as an easement in gross.

THE COURT: Okay.

MR. HOLDER: An easement in gross is appurtended to nothing.

THE COURT: Okay. I understand your argument. But again, whether they have built over the property line or in the stormwater management easement none of that is at issue until this Court determines you own remaining lands behind the Selby house. And that's the issue in the *Young* case in my mind.

MR. HOLDER: Which is why Count 5 brings rise to this whole proceeding. In Count 5 we decide it would bring rise to the *Estes* and *Young* case.

THE COURT: And that's going to be decided in the

Estes Young case.

MR. HOLDER: Which one?

THE COURT: Either of them.

MR. HOLDER: And take the possibility of two incompatible results that I'm bound to? How do I even litigate?

THE COURT: I guarantee you, you are going to be in front of me on both of them so you got one judge making one decision.

MR. HOLDER: So, you'll bind yourself to whatever you decide in *Young*?

THE COURT: Whatever I decide is, is general *res judicata* in any other case.

MR. HOLDER: And Estes has testified so he can use non-mutual offensive collateral estoppel. I guess. I mean that's what I'm going to have to do.

THE COURT: What are you talking about. The BQT stone?

MR. HOLDER: Yea, that's all that we need to decide.

THE COURT: Right.

MR. HOLDER: And then we can figure out the cases real easy. Are they criminal trespassers asking the Court to reward their behavior?

THE COURT: Isn't that going to be decided in the *Young* case?

MR. HOLDER: The adverse possession will be for sure in the *Young* case, in the *Estes* case.

THE COURT: But the - - I mean you're going to bring up the stone in the *Young* case.

MR. HOLDER: I'd like to have it decided where every party gets - - I think it would be very unfair for Mr. - -

THE COURT: That's your defense in the *Young* case, isn't it? It's going to be part of your defense is that - -

MR. HOLDER: Yes, but I think it would be very unfair to Mr. Estes to have that trial, determine the rights of the stone.

THE COURT: Well, his trial is first.

MR. HOLDER: *Estes* is?

THE COURT: Isn't he in June or is *Young* in June?

MR. HOLDER: *Young* is in June.

THE COURT: Okay.

MR. HOLDER: So, in Mr. Estes wouldn't he want to have a say in how that stone gets decided?

THE COURT: I (unintelligible) who's in the cases. I hear you.

MR. HOLDER: I mean that's the only - - I was looking to protect all the rights of all the parties for their claimed interest in one proceeding.

THE COURT: Um hum.

MR. HOLDER: If we decided the stone it would eliminate the need for expensive title experts to drag my wife and cost her. I mean, she has (unintelligible) I mean it's, it's, it's insane what they're doing to my wife. This is a war of attrition. There's no experts that will testify that that stone is not the stone, Your Honor.

THE COURT: Alright, so Count 7, I understand the issue.

MR. HOLDER: Um, let me just go over my - -

THE COURT: Count 6 or 8.

MR. HOLDER: If I had a letter from the town of Keedysville would you want to look at it regarding these remaining lands?

THE COURT: Why, what? How does it - - How does it involve this Motion to Dismiss?

MR. HOLDER: Uh, they are asking me to mow it. And I need to get access to it.

THE COURT: No, I don't need to see that.

MR. HOLDER: Okay.

THE COURT: Okay, so, Count 6 is also against Selby. She's one of the named defendants.

MR. HOLDER: Yes, and I would - -

THE COURT: And that is for an easement to and from

DIGITALLY SIGNED CERTIFICATE

I HEREBY CERTIFY that I reported verbatim by electronic device the proceedings in the matter of, *Justin Holder v Christine Morral, et. al.*, Case No. C-21-CV-21-420, in the Circuit Court for Washington County, on March 24, 2022, before the Honorable Andrew F. Wilkinson, Judge.

I further certify that the proceedings were transcribed by me to the best of my ability in a complete and accurate manner, and page numbers 1 through 59 constitute the official transcript of the proceedings.

In witness whereof, I have affixed my signature this 25th day of April, 2022.

Linde M. Cessna

Linde M. Cessna
Court Reporter

IN THE CIRCUIT COURT FOR WASHINGTON COUNTY, MARYLAND

JUSTIN HOLDER *
Plaintiff *
v. * **CASE NO. C-21-CV-21-420**
SCOTT MORRAL, et al. *
Defendants *

TRANSCRIPT OF PROCEEDINGS

(MOTION TO DISMISS BENJAMIN AND LISA ESTES)

Circuit Court
Hagerstown, MD
March 11, 2022 at 9:58 a.m.

Before:

The Honorable Andrew F. Wilkinson Appearances:

~~Justin~~ Holder, pro se, Plaintiff; **and**

Benjamin Estes, Esquire, attorney for Ben and Lisa Estes, Defendants.

Transcribed from electronic recording by:

Linde M. Cessna, Court Reporter
Circuit Court for Washington County, Maryland
The Court House
Hagerstown, Maryland 21740
240-313-2564

TABLE OF CONTENTS

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berm. That’s where Mr. Holder’s remaining lands are located as well as the properties of Stonecrest and Mr. Young’s land is somewhere down there across those railroad tracks as well. I just thought I’d sort of set the location of all the properties so that the Court could sort of identify who owned what, who alleges owns what and where they are.

THE COURT: That’s helpful to me because I did ask Mr. Holder in our previous hearing a little bit about where the disputed land was and if he disagrees with what you just said I’m sure he’ll tell me. One quick question.

MR. ESTES: Sure.

THE COURT: At the bottom of both plats there, the BQT Stone?

MR. ESTES: That’s correct.

THE COURT: Is that the stone monument that Mr. Holder claims in his pleadings?

MR. ESTES: I believe that’s correct, yes, Your

Honor.

THE COURT: Got it. Go ahead, sir.

MR. ESTES: It is important to note that I think Mr. Holder wrote that on, on the plats not Mr. Naugle, the surveyor, who actually performed the survey.

THE COURT: That could be an issue for litigation one day but I understand.

MR. ESTES: Not for today. Great.

THE COURT: I've always sort of wondered exactly where the BQT stone was.

MR. ESTES: Very well.

THE COURT: I think this is the first plat I've seen it in.

MR. ESTES: Okay, excellent. Well, I think this hearing may become fairly contentious and acrimonious so I think we could start on - -

THE COURT: I don't think it will.

MR. ESTES: Very well. Hopefully we can start on some common ground and I believe, at least with regard to

THE COURT: Neither do I.

MR. ESTES: What I believe what it says is that the State of Maryland has the right to regulate, it has the right to regulate the waters but it does not admit that there's any sort of public easement to use that water, no. It's just that it's not being litigated as part of that case.

THE COURT: Alright, look for that sentence if you will.

MR. ESTES: Sure. The right of the public if any to make use of the waters of the Little Antietam Creek or any other waters on the Estes property are not being litigated or adjudicated in this case.

THE COURT: Okay. I recall.

MR. ESTES: Does that answer your question?

THE COURT: Yes, I recall the sentence.   MR. ESTES: Great. As to Count 5, Mr. Holder is seeking a declaratory judgment regarding the location of the BQT stone. In order to, to survive a Motion to Dismiss with regard to the BQT stone in the declaratory judgment that he is, that he is looking for, Mr. Holder actually has to allege that an actual controversy exists or that there are antagonistic claims that would make litigation inevitable or that somehow one of the parties, myself, had denied his claims of rights in BQT stone. Nowhere in the complaint is it ever alleged that I denied the right, Mr. Holder’s right, to BQT stone. I don’t even know truly what the BQT stone stands for. Insofar as he wants to argue that that stone is somehow dispositive of where the property locations are that are being already adjudicated in case 430 in *Estes v. Holder*, then it should be dismissed because they’re being addressed there. Insofar as he’s trying to use the BQT stone to litigate somehow the property lines that exist between his remaining lands and those members of Stonecrest or, or Mr. Young that has nothing to do with me or my property at all whatsoever and should be dismissed.

THE COURT: Okay.

THE COURT: Okay.

MR. HOLDER: Count 6 to the extent Mr. Estes is possessing property - -

THE COURT: I think we skipped Count 5.

MR. HOLDER: Oh, yea, Count 5.

THE COURT: Count 5 is declaratory judgment on the BQT stone. His argument is, look, it should be handled in the *Estes Holder* case because that as it relates to him that's the case that it should be in and I think in the pleadings of *Estes versus Holder* the BQT stone is discussed quite a bit.

MR. HOLDER: Actually, I think he's prohibited by judicial estoppel from arguing that. He actually argued in a motion 2211 motion and a motion for the BQT itself that it's not being litigated there. Just like the creek I mean he won his motion and now he wants to litigate how the wind blows, Your Honor, that's the problem. THE COURT: My recollection is the BQT stone the reason it's not - - Let me be clear. You wanted to file - - I don't know. Maybe I'm getting the two cases mixed up, *Young* *and Estes*, but your counterclaim may not have been allowed because it was very late but the Court I think indicated that you're still allowed in your defense – -

MR. HOLDER: It did.

THE COURT: - - to argue whatever you want to argue and the location of the BQT stone as part of your defense is probably permissible. That's my recollection. I may have that wrong.

MR. HOLDER: No, I agree that was in the Jeffrey Young case. I appreciated that.

THE COURT: Okay, so if in that case I've said that you can use the BQT stone as your defense, why do we have to have a separate complaint about the BQT stone as it relates to Estes?

MR. HOLDER: Because you, and I don't mean to be argumentative, but I would like to remind the Court that you issued that Order in the *Young* case and you didn't issue that Order in the Estes case. Actually, the *Estes* case I have a motion to alter or amend that has been sitting on the docket for probably nine months to adjudicate the (unintelligible) paper I filed and Mr. Estes here today said he has no genuine dispute of fact that that stone is a stone there’s no reason we couldn’t certify it as a final judgment and be done with it.

THE COURT: So, and I don’t want to be mistaken here. Do you think there is a Motion to Revise that’s been sitting out there that hasn’t been ruled on in the *Estes* case?

MR. HOLDER: That’s what my records reflect on the docket, sir, in the *Estes Holder* 430 case, correct.

THE COURT: Okay, I’ll look. Okay. I want you to understand it wasn’t my intention or this Court’s intention, any of the judges, to have left something on that long and it just may be that there are so many pleadings in all of these cases that it is possible that it got missed. It was not the intention of the Court to let it sit. Do you understand?

MR. HOLDER: I understand that.

Justin Holder v. Scott Morral, et al., Case No. C-21-CV-21-420 in the Circuit Court for Washington County, on March 11, 2022, before the Honorable Andrew F. Wilkinson. I further certify that the proceedings were transcribed by me to the best of my ability in a complete and accurate manner, and page numbers 1 through 53 constitute the official transcript of the proceedings. In witness whereof, I have affixed my signature this 24th day of March, 2022.

Linde M. Cessna

____

Linde M. Cessna

Court Reporter

IN THE CIRCUIT COURT FOR WASHINGTON COUNTY, MARYLAND

JUSTIN HOLDER *
Plaintiff *
v. * **CASE NO. C-21-CV-21-420**
SCOTT MORRAL, et al. *
Defendants *

TRANSCRIPT OF PROCEEDINGS

(MOTION TO DISMISS WASHINGTON COUNTY BOARD OF COMMISSIONERS)

Circuit Court
Hagerstown, MD
March 11, 2022 at 11:07 a.m.

Before:

The Honorable Andrew F. Wilkinson

Appearances:

Justin Holder, pro se, Plaintiff; and

Jason Parkins, Esquire, attorney for Washington County Board of Commissioners, Defendants.

Transcribed from electronic recording by:

Linde M. Cessna, Court Reporter
Circuit Court for Washington County, Maryland
The Court House
Hagerstown, Maryland 21740
240-313-2564

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P R O C E E D I N G S

(Motion to Dismiss Washington County Board of County Commissioners)

THE COURT: Everybody have a seat. We're back on the record for C-21-CV-21-420. Before we get going Mr. Holder I want you to know that the Clerk was able to find that Amended Motion to Alter or Amend in the *Estes versus Holder* case - -

MR. HOLDER: Yes, Your Honor.

THE COURT: - - that was filed in June of 2021.

MR. HOLDER: Yes, Your Honor.

THE COURT: I have made a note to myself to research this to see if there was an order or there was not an order. If there was not an order issued I'll deal with it, okay. But we did find it.

MR. HOLDER: I (unintelligible) also made an order perhaps that was covered it in the 430 case just in January that related to maybe a motion or something an objection to the stipulation somehow.

THE COURT: Okay.

MR. HOLDER: There could be a ruling on it.

THE COURT: So, look for a January order of this year that makes sort of - -

√ Digitally signed by Linde M. Cessna

DIGITALLY SIGNED CERTIFICATE

I HEREBY CERTIFY that I reported verbatim by electronic device the proceedings in the matter of, *Justin Holder v. Scott Morral, et al.,* Case No. C-21-CV-21-420 (Motion to Dismiss Washington County Board of Commissioners) in the Circuit Court for Washington County, on March 11, 2022, before the Honorable Andrew F. Wilkinson.

I further certify that the proceedings were transcribed by me to the best of my ability in a complete and accurate manner, and page numbers 1 through 10 constitute the official transcript of the proceedings.

In witness whereof, I have affixed my signature this 28th day of March, 2022.

Linde M. Cessna

Linde M. Cessna
Court Reporter

IN THE CIRCUIT COURT FOR WASHINGTON COUNTY, MARYLAND

JUSTIN HOLDER,

Plaintiff

vs.

No. C-21-CV-21-116

CHRISTINE MORRAL, et al.

Defendants

OFFICIAL TRANSCRIPT OF PROCEEDINGS
MOTIONS FOR PARTIAL SUMMARY JUDGMENT

Hagerstown, Maryland

September 23, 2021
1:31 P.M.

BEFORE:

THE HONORABLE BRETT R. WILSON, Associate Judge

APPEARANCES:

For the Plaintiff:

ADAM GREIVELL, ESQUIRE

For the Defendants Christine and Scott Morral:

PETER ROGERS, ESQUIRE

Transcribed from digital recording by:

TRACY L. ZAMORA, Court Reporter
Circuit Court for Washington County
24 Summit Avenue, Suite 302
Hagerstown, MD 21740

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whether this was, if false, negligently given or maliciously given.

MR. GREIVELL: Right.

THE COURT: Um, I'm - - Are you asserting then that there are no other facts out there that the Court needs to hear, the finder-of-fact needs to hear before making such a contextual determination?

MR. GREIVELL: Uh, I would assert that this hearing and this motion was the vehicle by which the defendants could bring forth evidence that would bear on the subject. And yes, there's going to be a trial regarding the rest of the matters, the rest of the statements, um, but if we don't have to spend any time about, you know, they willfully buried their heads in the sand and chose to lie to people and say that there's no deed when in fact there was, you know, we can cut a significant piece of the trial. Um, you know, I can imagine probably a day or two related to this issue alone.

MR. HOLDER: I think number 30 did exactly what you said on - -

MR. GREIVELL: Oh, that's right. Your Honor, my client reminded me that my motion in fact was an invitation, uh, to the defendants to show us their evidence. And in number 30, at page six, I challenged the defendants and I said, "The defendants have not produced and cannot produce, (a) any evidence that the record title right-of-way does not exist as a matter of record and they have failed to do so; (b) any evidence that the record title right-of-way did not exist as a matter of record at the time the statements described herein were made; (c) that any expert opinion that the right-of-way did not exist as a matter of record title, either presently or at the time the statements were made; (d) any expert opinion that the record title right-of-way does not (meant to say burden) their property; and (9) any evidence or expert opinion that the right - - record title right-of-way (quote) 'never existed.'"

They were given the opportunity to present the Court with evidence that would dispute these things and they haven't done so. They haven't taken the opportunity to do so. And it's just - - I would submit that the reason is obvious, your Honor, because there is no evidence. That the record title is what it is. Tracie Clabaugh testified completely unrebutted, unchallenged on July 31st, 2020. It's in the record title. No one can challenge that. And it clearly existed.

Um, so anyway, yes, your Honor, I think your question, let me see if I'm - - if I'm answering, uh, I think your question was look, "We're going to have a trial anyway, um, is there other evidence that might bear on this issue of malice?" We're obviously going to have to prove degree of fault with regard to some of the other statements. You know one of the statements not really at issue in this motion is – "You're a liar." "You lied to everybody and everybody knows it." You know, where did she get her information about that? How did she come to determine that he's a liar? How did she come to determine that he lies to everybody? How did she come to determine that everybody knows it? Why did she publish that statement to so many people? Right? We're going to have to go into malice on some of these things, but I think with regard to the straight facts about was there a deed, was there a right-of-way at some point in history, we can just excise that and not to waste time on it.

THE COURT: Well let me, uh, let me address this before we move on to the, uh, summary judgment, partial summary judgment that was granted. The, uh, Court understands the opposition's argument about ownership of the property and how, uh, actually would have a deed supporting a right and that technically would be Ms. Holder, although they are married. Everyone knew they were married. They are husband and wife. Husband and wives do act as agents for one another, for better or worse, they do act in concert regardless of, uh, title. I mean, you know, one of our family cars is titled in my name. It's still our car. It's not an issue that we would go around saying, "No, uh, you know, my wife doesn't have any interest in - - in the car." Certainly does not have legal title interest in the property if he's not on the deed, however for purposes of working as a family unit, as a married couple, the Court doesn't believe that, uh, that defeats the claim of Mr. Holder. The Court does believe that these are false statements. You know, I'm not going to say they're lies. I'm going to say they're false. And to the extent that I guess we really have to go with specificity, but the - - the statements that Ms. Morral made directly, uh, stating that Mr. - - that there was no deed to the right-of-way, that Mr. Holder could not show a deed to the right-of-way, uh, which has been defined as a "wagon trail" and it can be, uh, ascertained by experts in the field sufficiently to place on a plat that they are false and I have no problem granting partial summary judgment to that point that they are false statements.

Uh, as to whether they are defamatory or negligent or malicious, quite frankly, that is for the ultimate trier-of-fact because it relies on more than just a context I think put in a motion, witness credibility, further discussion of the time and place that they were made. Further discussion of who else would have been speaking at those events, those were all very relevant to whether they rise to a level of maliciousness, which is significantly different than just saying "negligently stated false statements," and the Court's going to deny the motion - - the motion for partial summary judgment as to that point.

All right, now as to the wiretap issue, I can tell you the Court did receive these motions for summary judgment of course in its MDEC queue at a time before Ms. Morral - - It's Morral or Morale (spelled phonetically)?

MR. ROGERS: Morale (spelled phonetically).

THE COURT: Okay I'm sorry, Ms. Morral had hired counsel, uh, so she had not filed any response on her own. The time for filing response had run. They came up. When the Court reviewed the, uh, the facts that were presented to it, based on the motion for summary judgment or partial summary judgment, the Court did believe at that time there were sufficient facts, especially if Ms. Morral had not deemed it necessary to respond in any way, almost a tacit admission. With the reply brief, uh, having been filed by counsel once, and

IN THE CIRCUIT COURT FOR WASHINGTON COUNTY, MARYLAND

JEFFREY YOUNG *

Plaintiff

v. * Case No.: C-21-CV-20-371

JUSTIN HOLDER, *et al.*

Defendants *

OPINION

This matter came to the court for a three-day trial on the merits, beginning June 21, 2022. Present at the trial were Plaintiff Jeffrey Young with counsel, Defendant Deena Holder with counsel, Defendant Uncle Eddie's Brokedown Palace, LLC with counsel, and Defendant Justin Holder, *pro se*.

PROCEDURAL HISTORY

On September 16, 2020, Plaintiff Jeffrey Young filed a "Complaint and Petition to Quiet Title and for Declaratory and Injunctive Relief" against Justin Holder, Deena Holder, and all other interested parties concerning certain lands in Keedysville, Washington County, Maryland. Justin Holder and Deena Holder each, individually, filed answers. In addition, Defendant Uncle Eddie's Brokedown Palace, LLC ("Uncle Eddie's") filed an answer.[1]

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[1] Uncle Eddie's is registered as a New Mexico limited liability company created by Defendants Justin and Deena Holder. At the time of this trial, it was not registered to do business in the State of Maryland and its organization had not been completed to include any members. However, it is the title owner to certain lands near, but not abutting, Plaintiff's property.

Entered: Clerk, Circuit Court for
Washington County, MD
September 7, 2022

In his complaint, Plaintiff seeks relief in the form of a declaration that he is the owner of Parcel 2 and Parcel 3 as shown on Plat No. 2499, said lands being located near and around Dogstreet Road, Keedysville, Maryland.[2] Plaintiff also seeks a declaration that the Defendants, and any other persons, have no right or interest in Parcel 2 or Parcel 3. In addition, Plaintiff seeks an injunction prohibiting the Defendants, and any other persons, from entering Parcel 2 and Parcel 3. Plaintiff claims ownership of Parcel 2 and Parcel 3 by deed and by adverse possession.

In defense, Defendant Deena Holder claims an easement over Plaintiff Young's property, and over other neighboring properties, for purpose of access between her two parcels and Dogstreet Road and for purposes of the construction of underground utilities ("Wagon Road").

In defense, Defendant Uncle Eddie's also claims the Wagon Road easement over Plaintiff Young's property, and over other neighboring properties, for purpose of access between its one parcel and Dogstreet Road and for purposes of the construction of underground utilities.

In defense, Defendant Justin Holder claims ownership by deed of: (a) Parcel 3; (b) part of Parcel 3; or (c) a separate area of land abutting Parcel 3. Like the other defendants, Defendant Justin Holder also claims that the Wagon Road easement exists and that it burdens the Plaintiff's property.

All defendants claim that Plaintiff has not adversely possessed Parcel 3.

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[2] Land Records of Washington County, Maryland, Plat 2499. All references to Plats in this Opinion are from the Land Records of Washington County, Maryland.

FACTS

A. Plaintiff's Purchase and Use of Parcels 1, 2, and 3.

On August 3, 1988, Plaintiff purchased real property generally located at 13 Dogstreet Road, Keedysville Maryland from Harry and Lempi Wickline.[3] When Plaintiff purchased the property, Plat 2499 accompanying his deed showed three parcels: Parcel 1, Parcel 2, and Parcel 3. Combined, the three parcels are approximately 10.36 acres of land.[4]

Parcel 1 is a ±10-acre tract of land improved with a home, accessory buildings, and a panhandle driveway extending towards, but not intersecting with, Dogstreet Road.

Parcel 2 is a ±0.11-acre tract of land improved by a driveway. Parcel 2 connects Parcel 1 to Dogstreet Road. Parcel 2 was also included in a deed to a neighboring property owned by Jennifer Butts. For this reason, Parcel 2 is identified on Plat 2499 as an "area of deed overlap." Plaintiff obtained a quitclaim deed from Jennifer Butts for Parcel 2 in 1993, making him the sole owner of Parcel 2 by record title.[5]

Parcel 3, as shown on Plat 2499, is an approximate 0.25-acre strip of land along the northwestern area of Plaintiff's property, east of and bordering on land that is now the Stonecrest housing development ("Stonecrest"). Plaintiff claims ownership of Parcel 3 through his 1988 deed and, if not by deed, then by adverse possession.

When Plaintiff purchased the property in 1988, the entire property was overgrown and unkept. The home on Parcel 1 was severely dilapidated, as it had sat uninhabited for over a decade. Upon his purchase, Plaintiff moved to the property, lived in a camper, and spent several years improving the property by fully repairing and renovating the home, adding well and septic, replacing electric, replacing the roof, removing trash and debris, trimming trees, and mowing grass. He has been continuously living at the property since 1988.

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[3] Land Records of Washington County, Maryland, Liber 885, folio 110. All references to Deeds in this Opinion are from the Land Records of Washington County, Maryland.

[4] *Id.*

[5] Liber 1108, folio 790.

At the time of Plaintiff's purchase, Parcel 3 was covered by mature trees, brush, trash, and other debris. A fence ran along the boundary between Parcel 3 and a neighboring farm pasture to the west, said field now being the Stonecrest development. Plaintiff cleared brush and trash on Parcel 3, trimmed trees, and began mowing. He testified that he found some evidence of an old walking path along Parcel 3 while maintaining it, but that the path was too narrow and overgrown for any kind of vehicular travel and it had never been paved. Plaintiff and his stepson testified that they have used Parcel 3 over the past 34 years for a variety of activities, including mushroom hunting, deer hunting, and gardening.

After seeing signs that trespassers had been on the property around 1988, Plaintiff began posting "No Trespassing" signs on the full perimeter of Parcels 1, 2 and 3. Since then, he has maintained 20 to 30 signs on the full perimeter, replacing and repairing them as needed.

After approximately five years of actively maintaining Parcel 3, Plaintiff decided to let the area "return to nature" and let it grow naturally. It returned to a state of being covered by mature trees and thick brush as it existed in 1988. Over the years he tried to mow a walking path for himself over some portions of Parcel 3, but it became too difficult over time, especially at the north end of the Parcel due to the heavy growth of vegetation. Although he does not now do as much to maintain the area as he did years ago, he still regularly checks on Parcel 3 to clear any trash and debris, he maintains the "No Trespassing" signs, and his stepson uses the elevated position for hunting.

Plaintiff has paid taxes as the owner of Parcel 3. He refinanced the whole property in 1999 without objection from the lender. Plaintiff has never given anyone permission to use Parcel 3 other than his immediate family.

B. Defendants' Properties.

Defendant Deena Holder owns two parcels (Tax Parcel 127 and Tax Parcel 412) near Parcels 1, 2, and 3, but her parcels do not abut Parcels 1, 2, or 3. Defendant Uncle Eddie's owns one parcel (Tax Parcel 414) near Parcels 1, 2, and 3, but the parcel does not abut Parcels 1, 2, or 3. Defendant Deena Holder's parcels and Uncle Eddie's parcel are generally separated from Parcels 1, 2, and 3 by property owned by the State of Maryland and the Stonecrest housing development. Defendants Deena Holder and Uncle Eddie's access their parcels through Antietam Drive and a 10-foot wide access lane from Antietam Drive, through the forest conservation area of Stonecrest, and across lands of the State of Maryland.[6]

Defendant Justin Holder purports to own one parcel abutting or overlapping Parcel 3 by deed(s). The parcel (the "Gap") is generally described as 8,296 square feet or 0.19 acres, situated somewhere between or within Parcel 3 and the Stonecrest subdivision.

C. The Stonecrest Subdivision.

Parcel 3 no longer borders a farm pasture to the west. The pasture, a ±9.44-acre parcel, was sold by Jennifer Butts to Thomas Davis in 1996.[7] Davis sold the parcel to Stonecrest Development, LLC in 2003.[8] Subdivision approval was granted in 2005 with some initial construction beginning thereafter. Construction of houses began in earnest around 2016 and

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[6] Various evidence in this case refers to Antietam *Drive* as Antietam *Street*. They are one and the same.

[7] Liber 1289, folio 415.

[8] Liber 2193, folio 587.

Stonecrest now consists of twenty-one homes, a stormwater management area, and a forest conservation area. While construction took place, construction trash and debris routinely blew onto Parcel 3, which Plaintiff regularly cleaned.

D. Plats and Tax Map.

The final plat of subdivision of Stonecrest, Plats 8292-93, identifies the western boundary of Plaintiff's land abutting the eastern edge of Lots 10-14 of Stonecrest. A replat of Stonecrest at Plats 10649-50 also identifies the western boundary of Plaintiff's land abutting the eastern edge of Lots 10-14 of Stonecrest.[9] Likewise, the local tax map identifies the western boundary of Plaintiff's land abutting the eastern edge of Lots 10-14 of Stonecrest.

E. The Wagon Road.

By an 1872 deed ("Cost Deed"), a predecessor in title of Plaintiff (Cost) granted an easement or license to a predecessor in title of Defendants Deena Holder and Uncle Eddie's (Kreitzer).[10] According to the Cost Deed, the purpose of the grant was to allow predecessors of Defendants Deena Holder and Uncle Eddie's (Kreitzer) to use a "wagon road" over the land of Plaintiff's predecessor (Cost), then across the land of a separate parcel owned by a third-party (Keedy), to get to a road. In short, Cost granted use of a wagon road to Kreitzer over the Cost property and over the neighboring Keedy property to get to a road between Keedysville and Martin Eakel's Mill.

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[9] Defendants took issue with Plats 10649-50 listing a different owner of Plaintiff's land, suggesting the error should cause the court concern as to the accuracy of the whole plat. The court does not share the Defendants' concern, as the same plat specifically references an easement over a small portion of Stonecrest Lot 1 "for the use of **Young** and their heirs and assigns." Any inaccuracy in Plats 10649-50 was a scrivener's error, nothing more.

[10] Land Records of Washington County, Maryland, W.McK.K. 6, folio 363.

Using the present-day plats, Plaintiff's expert Christopher Joliet, Esq. and Defendants' expert George Nagel both agree that the Wagon Road described in the Cost Deed ran from the Defendants' properties, through the forest conservation easement of Stonecrest, across Lot 9 of Stonecrest, across Lot 10 of Stonecrest, and then into Parcel 3 claimed by Plaintiff. Both experts agree that the Wagon Road stopped within Parcel 3, at the back corner of Stonecrest Lot 14, and did not extend to present-day Dogstreet Road because Cost did not have authority to extend the easement over the land of a third-party.

DISCUSSION

I. Parcel 1 and Parcel 2.

Early in this litigation, Defendant Justin Holder claimed that he had some ownership interest in Plaintiff's Parcel 2. Such claim was abandoned at or before trial.

For clarity in this decision, this court finds that Plaintiff has established that he is the record title owner to Parcel 1 and Parcel 2. Plaintiff's 1988 deed is a valid deed of transfer of, at a minimum, Parcel 1 and Parcel 2, and it is properly recorded in the Land Records of Washington County. In addition, Plaintiff received a quitclaim deed from Jennifer Butts in 1993 concerning Parcel 2.[11] Any deed or attempted transfer of any portion of Parcels 1 or 2 by any person other than Plaintiff is invalid.

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[11] Liber 1108, folio 790.

II. Parcel 3.

Plaintiff claims ownership of Parcel 3 by deed and by adverse possession.

A. Plaintiff's Record Title.

As noted, Plaintiff purchased Parcels 1, 2, and 3 by deed from Harry and Lempi Wickline in 1988.[12] The 1988 description does not delineate the property as Parcels 1, 2, and 3. Instead it describes the entire perimeter of the property as shown on Plat 2499. In the "being clause," the land is described as "all of Parcels 1, 2, and 3" as owned by the Wicklines and their predecessors, the Reeders. The Reeder-Wickline deed of 1966 describes the three parcels individually.[13] Based on these documents, Plaintiff believes that he is the owner of the whole property, including Parcel 3. At a minimum, these documents give color of title to Parcel 3.

The farm pasture that became Stonecrest was conveyed from Jennifer Butts to Thomas Davis by deed in 1996.[14] The deed indicates that the eastern boundary of the farm pasture follows the western edge of Plaintiff's property. In 2003, Davis conveyed the same property to Stonecrest Development LLC, again stating that the eastern boundary of the farm pasture follows the western edge of Plaintiff's property.[15] Stonecrest was subdivided in 2005 by Plats 8292-93 which show the eastern boundary of the farm pasture (soon to be houses) abutting the western edge of Plaintiff's property. Specifically, Plat 8293 shows eastern boundaries of Stonecrest Lots 10-13 and part of Lot 14 as abutting the "Wire Fence Remains" with all property southeast of the "Wire Fence Remains" belonging to Plaintiff Young. On a re-plat of the subdivision in 2016, Plat 10650 shows the same metes and bounds description of the boundary between Parcel 3 and

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[12] Liber 885, folio 110.
[13] Liber 434, folio 776.
[14] Liber 1289, folio 415.
[15] Liber 2193, folio 587.

Stonecrest as is shown on Plat 8293.[16] All deeds to the individual lots within Stonecrest refer to Plats 8292-93 and 10649-50 to establish the boundaries of the Stonecrest properties.[17]

The deeds and plats are consistent that Stonecrest and Parcel 3 border each other directly. There is no gap between the properties or any question of ownership. The deeds and plats, taken together, indicate that Plaintiff is the record owner of Parcel 3 by deed with the western boundary of Parcel 3 shown on Plat 2499 abutting and bordering the eastern boundary of Stonecrest shown on Plats 8292-93, as said plats are recorded in the Land Records of Washington County, Maryland.

In defense, Mr. Holder contends that during the transfer of the farm pasture and the subdivision of the Stonecrest neighborhood, the then-owners inadvertently left a gap of land – the Gap – between or within Plaintiff's Parcel 3 and Stonecrest Lots 10-14. If such Gap exists, Mr. Holder believes he owns it. The Gap defense is discussed below with the other defenses.

B. Adverse Possession – The Law.

As an alternative theory of the case, Plaintiff claims to own Parcel 3 by adverse possession. Much of the evidence at trial concerned adverse possession.

To establish title by adverse possession, a claimant must show that the property has been in his or her possession for the statutory period and that such possession was actual, open, notorious, exclusive, hostile, and continuous or uninterrupted.[18] These elements are deeply related and intertwined, and as a result, the considerations relevant to one element are usually relevant to others. Adverse possession is a mixed question of law and fact. The claimant has the burden of proving that the elements of adverse possession have been met. If a defendant claims to have superior title, the defendant has the burden of proving such title.

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[16] The purpose of the re-plat in 2016 was to change a particular play lot to a building lot and to amend a stormwater management feature.

[17] *See e.g.:* Liber 5602, folio 404 and Liber 5720, folio 107 (deeds to the properties at 130 and 134 Stonecrest Circle, respectively, describing the boundaries of the land as shown on plats 8293 and 10650).

[18] *Yourik v. Mallonee*, 174 Md. App. 415, 422-23, cert. denied, 399 Md. 597 (2007).

Possession is a fact-intensive inquiry, meaning that the possessory acts necessary to establish actual possession of land are going to be different based on the character, location, and use of the land.[19] In order for a court to find actual possession, there must be some act or acts of ownership on the land itself.[20] However, where a claimant makes a claim to land under color of title, there is a lessened burden of proving actual possession or occupation of every square inch of the land.[21]

Similarly, open and notorious possession function to provide constructive notice to others of the possession through visible occupation or acts of ownership on the property.[22] Due to these similarities, the facts supporting actual possession are generally sufficient to demonstrate open and notorious possession.[23]

Exclusive possession means that the claimant is the only person exercising total control over the land.[24] Possession is exclusive if a claimant exercises the type of possession characteristic of an owner's use.[25] Mere physical entry by the true owner is not sufficient to interrupt the statutory period or exclusive nature of adverse possession; the true owner must clearly indicate a challenge to the occupation by the adverse possessor.[26] To constitute such a challenge, the entry must be open and under claim of right consistent with that of an owner; it cannot be accidental, causal, or secret.[27]

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[19] *Blickenstaff v. Bromley*, 243 Md. 164, 171-72 (1966).
[20] *Id.*, at 171.
[21] *Peters v. Stabuitz*, 64 Md. App. 639, 646 (1985).
[22] *Blickenstaff*, 243 Md. at 171.
[23] *Id.*, at 172-73, *citing Bishop v. Stackus,* 206 Md. 493 (1955).
[24] *Id.*, at 173 (citations omitted).
[25] *Id.*
[26] *Rosencrantz v. Shields, Inc.*, 28 Md. App. 379, 389-90 (1975).

Hostile possession is possession without license or permission of the record title holder.[28] That the possession may be due to inadvertence, ignorance, or mistake is not material.[29] The court need not find that the occupant specifically intended to oust the title holder at the time the occupancy began to establish hostile possession.[30] Hostile possession can also be satisfied by an assertion that the property was held under color of title, meaning that the adverse possessor has asserted ownership of the subject property based on a defective paper title.[31] Color of title is not a separate and distinct element of adverse possession, but rather one method by which a plaintiff may establish hostile possession.[32]

Finally, adverse possession requires continuous possession for the statutory period of twenty years, codified by state law.[33] The clock starts running when a claimant takes possession under a claim of right, that is, when all the essential elements of adverse possession are present. The clock may stop running if the true owner enters the property to take repossession, openly and under claim of right.[34]

Adverse possession is based upon the possessor's objective intent, not his or her subjective intent, therefore the court must consider the elements of adverse possession with respect to the claimant's objective manifestation of adverse use.[35] Once title by adverse possession has been "perfected," meaning that all the elements of adverse possession have been satisfied for the requisite time period, ownership transfers to the adverse possessor. Once ownership is perfected, it can only be lost if the property is adversely possessed by another.

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[27] *Id.; Miceli v. Foley*, 83 Md. App. 541, 556 (1990)

[28] *Blickenstaff*, 243 Md. at 174; *Yourik* 174 Md. App. at 429.

[29] *Bishop*, 206 Md. at 499.

[30] *Yourik*, 174 Md. App. at 429.

[31] *Id.*, at 427.

[32] *Id.*, at 426-27, *citing Guaranty Title & Trust Corp v. U.S.*, 264 U.S. 200, 204-05 (1924).

[33] Md. Code, Courts and Judicial Proceedings §5-103.

[34] *Miceli* 83 Md. App. at 556.

[35] *Id.*, at 552-53.

C. Adverse Possession – Analysis.

Plaintiff asserts that he has met all the elements of adverse possession regarding Parcel 3. Plaintiff purchased and moved to the property in 1988. He lived in a camper on Parcel 1 while renovating the home. At a minimum, he used Parcel 1 and Parcel 2, as an owner would, on a daily basis.

Plaintiff credibly testified that he has been posting No Trespassing signs on the perimeter of the entire property, including Parcel 3, for over 30 years and has maintained Parcel 3 since 1988, using it solely for his family's enjoyment. After years of actual maintenance of Parcel 3, he decided to allow the land to return to its natural state. Even then, he continued to maintain Parcel 3 by mowing a walking path for himself and picking up trash and debris from the construction of Stonecrest. Ultimately, mowing became too difficult at the north end of Parcel 3 with the continued growth of trees and brush.

Plaintiff has ejected trespassers. His stepson has used the elevated position of Parcel 3 for hunting. He and his stepson have used Parcel 3 regularly in the same way that they use other undeveloped portions of the larger property. He has treated and used Parcel 3 as his own property, openly and against the world. He has not hidden. He has exercised dominion of the whole of Parcel 3 since 1988 as an owner would, with overt and objective action.

If there was ever a time that Plaintiff's ownership of Parcel 3 would have been tested, it would have been when Stonecrest was subdivided and built. However, there is no evidence that any developer, surveyor, builder, home purchaser, attorney, bank, insurer, settlement agent, or any government official or agency balked at Plaintiff's ownership up to the eastern edge of Stonecrest. Silence speaks volumes.

All of the facts and evidence received over three days of trial, taken together, are sufficient to satisfy the elements of actual, open, notorious, exclusive, hostile, continuous, and actual possession, as well as the time requirement for adverse possession since 1988. Plaintiff further satisfies the element of hostile possession through his possession under color of title. He believed that Parcel 3 was conveyed to him by the 1988 Wickline deed, said transfer including the land up to the eastern edge of the farmer's pasture. Plaintiff has behaved for the last 34 years as the owner of Parcel 3 and has been recognized by others as the owner of Parcel 3. The local tax map indicates Plaintiff Young as the owner of the land abutting the eastern boundary of Stonecrest. He has paid taxes as such. He refinanced the property in 1999 and his lender did not raise any concern as to his ownership of the entire property. Additionally, when creating and approving plat maps and deeds to the Stonecrest neighborhood, the developer and local government recognized Plaintiff's ownership of Parcel 3 to the eastern edge of the pasture/neighborhood.

D. The Defenses.

The only person who has ever challenged Plaintiff's ownership of any part of the property is Defendant Justin Holder. The challenge began in May 2020 when he entered Parcel 3 without permission and cut a significant path through Parcel 3 using a Bobcat and a chainsaw.

1. Trespassers.

Defendants contend that Plaintiff has not adversely possessed Parcel 3 because members of the public trespassed on the property in the years between 1988 and 2001. Such trespasses may have included children riding bikes, teenagers partying in the woods, or a hunter trying to put up a tree stand. However, the element of exclusive possession does not mean that another person may never be present on the property. Mere physical entry onto a property does not reset the clock on adverse possession. Teenagers hanging out in the woods does not stop Plaintiff's possession. More importantly, there is no evidence that a "true owner" or any agent or licensee thereof attempted to regain possession of Parcel 3 openly and under claim of right from 1988 to present.

Defendants also contend that a Stonecrest homeowner has been mowing and gardening a small portion of Parcel 3 during the past two years, suggesting that this activity interrupted Plaintiff's actual and exclusive possession. This argument is without merit. Plaintiff's ownership by adverse possession ripened and was perfected in 2008. Activity by a neighbor in 2020-2022, which might be contrary to Plaintiff's ownership, is irrelevant. Also, there was evidence that the Stonecrest neighbor's activity was done with Plaintiff's permission. Of course, Plaintiff's permission would nullify any negative effect the activity could have on Plaintiff's ownership.

2. Justin Holder's Deeds.

Mr. Holder alleges that he lawfully purchased Parcel 3 and/or part of Parcel 3 by deeds in 2020 and 2021 and, therefore, he has superior claim to Parcel 3. A full understanding of Mr. Holder's claim requires exploration.

a. Stonecrest, the Gap, and the Deeds

Mr. Holder contends that during the transfer of the farm pasture and the subdivision of the Stonecrest neighborhood, the then-owners left the Gap between the Stonecrest Lots 10-14 and Plaintiff's Parcel 3. Alternatively, Mr. Holder contends that the Gap and Parcel 3 on Plat 2499 are the same piece of land. Based on these theories, Mr. Holder sought out, and caused to be drafted, executed, and recorded, quitclaim deeds from Stonecrest Development LLC, and later from Jennifer Butts, calling this "found" property the "remaining lands." Because he claims to hold deeds that contravene Plaintiff's ownership, Mr. Holder believes he owns Parcel 3, part of Parcel 3, or the Gap.

The first quitclaim deed is dated August 10, 2020, wherein Stonecrest Development LLC quitclaims certain "remaining lands" to Justin Holder for $500.[36] The "remaining lands" are described in a survey attached to the deed from Fox & Associates, which describes the land as 8,296 square feet or 0.19 acres.[37]

The second quitclaim deed is dated November 3, 2020 and uses the same language to quitclaim the "remaining lands" from Jennifer D. Butts to Justin Holder for $500.[38] Again, the "remaining lands" are described by the Fox & Associates survey as 8,296 square feet or 0.19 acres.

The third quitclaim deed dated June 22, 2021 quitclaims the same land from Jennifer Butts to Justin Holder for $500.[39] The only remarkable differences between the 2020 Butts-Holder deed and the 2021 Butts-Holder deed is that the newer deed contains a more detailed history of alleged roads and easements in the area, and the newer deed makes a reference to ownership of part of a railroad bed, said bed not being at issue in this case.

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[36] Liber 6370, folio 249.
[37] *Id.*
[38] Liber 6414, folio 219.
[39] Liber 6729, folio 365.

b. Expert Testimony and the Gap.

During trial, Defendants called George Nagel, a local land surveyor with years of experience, as an expert. Mr. Nagel had drafted the descriptions the Mr. Holder used in the three quitclaim deeds noted above. Admittedly, this court fully expected Mr. Nagel to testify that the defense theory of the Gap was true and would show the court exactly where the Gap is. Unfortunately for the defense, Mr. Nagel's testimony did not do so.

Mr. Nagel testified, and drew a picture, indicating that there is no Gap as theorized by the defense. Mr. Nagel's testimony established that Plaintiff's Parcel 3 is exactly where Plat 2499 says it is, it abuts the Stonecrest development, and, if anything, it is bigger than Plat 2499 shows.

The court received a significant amount of evidence concerning Parcel 3 and its location relative to Stonecrest, including deeds, plats, expert testimony from Mr. Nagel and Mr. Joliet. Taking all the evidence together, there is one inescapable conclusion: there is no Gap. It does not exist. As such, any deed that Mr. Holder received that claims to quitclaim ownership, or transfer ownership, of the Gap are invalid and ineffective because the Gap does not exist.[40]

c. The Problem of Parcel 3 and the Remaining Lands.

As an alternative theory, Mr. Holder suggests that Parcel 3 on Plat 2499 and the "remaining lands" quitclaimed by Ms. Butts and the Stonecrest developer are the same piece of land and, because he has deeds, he is the rightful owner. Here again, though, the Defendants' expert did not help the cause. Mr. Nagel made clear that there was no 8,296 square feet or 0.19 acres of "escaped" land when the farm field was transferred to the Stonecrest developer (other than 15 square feet to the north and not within Parcel 1, Parcel 3, or Stonecrest). The deed conveying the farm field to the Stonecrest developer describes the property's eastern boundary as following along the lands of Plaintiff Young.[41] As such, neither the developer, nor Ms. Butts (as a predecessor to the developer), could have quitclaimed or transferred any portion of Parcel 3, whether as described by Plat 2499 or as described by Mr. Nagel in testimony, because they did not have any claim in Parcel 3 to be quitclaimed. Mr. Holder's alternative theory is without merit.

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[40] In this litigation, Mr. Holder has suggested that the three deeds "transferred" property to him. This court's review of the deeds leads to a conclusion that the deeds are not deeds of transfer; they are quitclaims only. Each is captioned "Quitclaim Deed." They contain no warranty and, as indicated *infra*, violate the Keedysville Subdivision Ordinance.

d. Timing of the Deeds.

In the context of adverse possession, a defendant who claims to have superior title by deed has the burden of proving such title. In assessing such claims, the court must consider whether adverse possession tolled before or after the defendant recorded its deed to the property. In the instant case, the three deeds were recorded at least 12 years after Plaintiff's adverse possession was perfected in 2008 (and 32 years after Plaintiff's deed from the Wicklines). Additionally, the two Butts-Holder deeds were recorded after Plaintiff had filed this lawsuit. Because the deeds were filed in 2020 and 2021, all three quitclaim deeds are invalid as against Plaintiff's ownership.

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[41] Liber 2193, folio 587.

e. The Keedysville Subdivision Ordinance.

Subdivision of real property within the municipal boundaries of Keedysville is governed by the Town's Subdivision Ordinance. All land at issue in this case is within the boundaries of the municipal corporation of Keedysville.[42]

The Subdivision Ordinance provides, "[a]ll lands within the incorporated limits of the Town of Keedysville shall be subject to the provisions of this ordinance. No such land shall be subdivided and offered or negotiated for sale, sold, or ownership transferred except in accordance with the provisions of this ordinance."[43] The regulation further defines subdivision as "the division of a parcel of land into two or more lots for the purpose of transfer of ownership," excluding the "transfer or sale of land between owners of adjoining properties which does not involve the creation of any new buildable lots."[44] A developer or subdivider is not permitted to transfer lots within a subdivision unless a final plat has been approved by the Planning Commission, showing all proposed lots, signed by the required parties, and filed with the Washington County Land Records.[45]

Stonecrest was subdivided in 2005 by Plats 8292-93. Such subdivision was subject to the Subdivision Ordinance. Plats 8292-93, and any subsequent amendments, do not show the Gap (or the escaped 15 square feet) as having been subdivided from the Stonecrest property or from any other property.[46] Therefore, even if it were assumed that the Gap exists, which this court has determined it does not, any attempted quitclaims or conveyances by the Stonecrest developer or Ms. Butts in 2020 and 2021 to Mr. Holder did not comply with the Keedysville Subdivision Ordinance and they are, as such, invalid and void.[47]

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[42] Although part of Parcel 1 may be the municipal boundary, this is not relevant because Parcel 1 is not in dispute.

[43] Subdivision Regulations, Town of Keedysville, May 2002, § 1.03.

[44] *Id.,* §4.02.

[45] *Id.,* §2.01

[46] Mr. Nagel testified that the 2020 and 2021 Butts-Holder deeds may have only involved an "escaped" **15 square feet** north of Parcel 3 that were seemingly not included in the 1996 Butts-Davis deed or the 2003 Davis-Stonecrest Development deed. He thought the "escaped" 15 square feet should have gone been part of the Stonecrest neighborhood through the Butts-Davis deed and the Davis-Stonecrest deed. At trial, Plaintiff did not claim ownership of the "escaped" 15 square feet and ownership is not before the court for decision.

E. Conclusion.

For the foregoing reasons, this Court finds that Plaintiff Jeffrey Young is the record owner of Parcel 1, Parcel 2, and Parcel 3 as indicated on Plat 2499, one of the land records of Washington County, Maryland. Said ownership is by recorded deed. Even if the recorded deed were somehow defective, Plaintiff has adversely possessed Parcel 3, perfecting ownership in 2008. No other person has any ownership interest in Parcel, 1, Parcel 2, or Parcel 3. The western boundary of Parcel 3 as indicated on Plat 2499 abuts and borders the eastern boundary of the Stonecrest development as shown on Plats 8292-93. There is no additional strip of land or Gap between Parcel 3 and the Stonecrest development. Any deed purporting to transfer or quitclaim any part of Parcel 1, Parcel 2, or Parcel 3 (as defined herein and as shown on Plat 2499 and Plats 8292-93) to Justin Holder is invalid and void.

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[47] As noted in *Stitzel v. St. of Md.*, 195 Md. App. 443, 454 (2010) *cert. denied*, 418 Md. 192 (2011), where an ordinance provides that a transaction is unenforceable if it violates the ordinance, then the transaction is void. Where an ordinance does not call for unenforceability, the court should balance the interests of the parties in maintaining the transaction versus the public policy interests in voiding the transaction. Here, the Keedysville Subdivision Ordinance clearly provides that any attempted transfer of an interest without proper subdivision is invalid. However, even if the court were to balance the interest of the parties, the court believes that the public policy interest of the Town of Keedysville in enforcing its Ordinance outweighs the interests of Mr. Holder in attempting to claim ownership of a Gap that this court has determined does not exist. With respect to Mr. Nagel's opinion that 15 square feet north of Parcel 3 may have escaped the subdivision process, the court is hesitant to attempt to piecemeal out which portions of the 2020 and 2021 deeds are valid or invalid. Mr. Holder claims he owns 8,296 square feet or 0.19 acres by deed. He does not. The deeds are defective, invalid, and void in total.

III. The Wagon Road.

The parties dispute whether the grant of use of the Wagon Road in the Cost Deed was an easement or a license, and whether it still exists to benefit the Defendants' properties as the dominant estates.

A. Easements and Licenses – The Law.

An easement creates a non-possessory interest in land owned by another person, granting the easement holder permission to use the owner's land for a limited purpose.[48] Easements can be either specific, meaning that the location of the easement is easily discernible from the documents creating the easement, or general, meaning that there is clear intention to create an easement within such documents but that the precise location cannot be ascertained.[49]

Separate from an easement, a license conveys only a personal privilege to do a particular act on a parcel of land without any interest in the land.[50] As such, a license terminates on the death of the grantor or grantee.[51]

B. Easement or License?

The Cost Deed granted to "David Kreitzer[,] his heirs and assigns forever, the use of a wagon road to and from said land hereby conveyed …"[52] The term "forever" is critical. A license terminates upon the death of the grantor or grantee. The term "forever" suggests something more. It suggests a right that runs without regard to the deaths of the property owners. It suggests a right that runs with the land. As such, the Cost Deed granted an easement, not a mere license.

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[48] 8A M.L.E. Easements §1.

[49] *Rogers v. P-M Hunter's Ridge, LLC*, 407 Md. 712, 731 (2009).

[50] *Goss v. C.A.N. Wildlife Trust, Inc.*, 157 Md. App. 447, 457 (2004).

[51] *Id.*

[52] Land Records of Washington County, Maryland, W.McK.K. 6, folio 363.

C. An Original Defect.

Although the Cost Deed attempted to grant an easement, the grant suffers a significant and original defect. According to the deed, the purpose of the grant was to allow predecessors of Defendants Deena Holder and Uncle Eddie's to use a "wagon road" over the land of Plaintiff's predecessor, then across the land of a third-party, to get to a road.

As noted by Plaintiff's expert Mr. Joliet, the original grantor, Cost, could not have granted an easement over the third-party property because Cost did not own it. Therefore, the easement cannot (and never could) allow for ingress and egress from Defendants' properties to a public road. Because the Cost Deed never lawfully provided what it purported to provide for the benefit of the dominant estate – a way to access a road – it was defective from the start and remains wholly defective today.

D. Location of the Easement.

According to the Cost Deed, the easement ran along the western boundary of the railroad to the Cost-Keedy property line. Using the present-day plats, experts Mr. Joliet and Mr. Nagel both agree that the easement ran from the Defendants' properties, through the forest conservation easement of Stonecrest, across Lot 9 of Stonecrest, across Lot 10 of Stonecrest, and then into Plaintiff's Parcel 3. Both experts agree that the easement stopped within Parcel 3, at the back corner of Stonecrest Lot 14, and did not extend across any other lands, any road, or to Dogstreet Road. Thus, experts on both sides confirm that the Cost Deed never lawfully provided a way to access a road. It was an easement to nowhere.

E. Purpose and Scope of the Easement.

Defendants have indicated that they intend to use the easement for vehicular traffic, whether it be deliveries to their properties or general enjoyment of the land. However, if the easement still exists, these uses would not be permissible under the original grant. Generally, an individual who holds an easement is entitled to use the easement in the manner that is fairly contemplated at the time of conveyance.[53] The Cost Deed, though defective, attempted to grant access to and from a particular road. Since the easement stops in Parcel 3 and does not lead to a public road, the purpose of the original grant does not exist. The only way this court could provide access to the public road would be to enlarge the scope of the easement to burden Parcels 1 and 2. The court will not do so.

In addition to travel, Defendants have indicated that they intend to use the easement to run underground utilities to the properties owned by Defendants Deena Holder and Uncle Eddie's. Again, an easement may be used in the manner that is fairly contemplated at the time of conveyance. No words in the Cost Deed contemplate the use of the easement for underground utilities. Defendants' intended use for underground utilities would require this court to expand the scope of the easement. This court will not do so.[54]

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[53] *Millson v. Laughlin*, 217 Md. 576, 585 (1958).

[54] Trial testimony indicated that the Town or County had already run water utilities to Defendants' properties under Antietam Drive, under Defendants' access lane extending from Antietam Drive, and under the old railroad bed owned by the State of Maryland. In addition, testimony indicated that the Town, County, and State had been willing to run sewer service along the same course. Any suggestion that there is a necessity to use the Wagon Road easement for underground utilities is without merit.

F. Estoppel by non-use and reliance.

Even if this court were to ignore the original defect in the Cost Deed, the easement could be terminated by estoppel, that is, non-use of the easement and reliance by the servient estate.[55] Maryland courts note a distinction between the doctrine of basic abandonment of an easement and the doctrine of abandonment by estoppel. The distinction rests on whose actions are considered. To establish basic abandonment, there must be non-use and a positive act of abandonment by the owner of the dominant estate.[56] In an estoppel case, however, the dominant owner's acquiescence to the servient owner's reliance on non-use may be substituted for affirmative acts of abandonment by the dominant owner.[57] Put another way, estoppel requires proof of: (1) non-use, (2) reliance by the servient estate, (3) acquiescence by the dominant estate.[58]

In this case, there was non-use of the easement from at least 1988 to present. Though there may have been the occasional group of teenagers looking for a quiet place to party, such interloping is not the same as continuous use of the easement for easement-type purposes.

As to Plaintiff, he relied on non-use in the manner in which he maintained the area and when he decided to allow Parcel 3 to go back to nature. Allowing Parcel 3 to return to nature with the growth of mature trees and thick brush along its entire length of nearly 500 feet posed an absolute and obvious challenge to the dominant estates' rights. And yet, the dominant estates did nothing. The dominant estates acquiesced until May 2020. By then, however, it was too late.

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[55] *United Finance Corp. v. Royalty Realty Corp.,* 172 Md. 138, 146-47 (1937).

[56] *Purnell v. Beard & Bone, LLC,* 203 Md. App. 495, 527 (2012).

[57] *United Finance Corp.*, 172 Md. at 145.

[58] *Id.*, at 147 ("But whether the basis for the relief be called equitable estoppel, or abandonment and reverter, is a mere matter of terminology of little relative importance, except to the verbal precisian. For in any case it involves the principle that one who, having an easement of way ... suffers his right to lie fallow and unused for a long period of time, and throughout the period suffers the owners of the servient tenement not only to use it as though no such right existed, but actually acquiesces in such use by ... permitting any uses of the land inconsistent with the existence of the easement, may be held to have sufficiently manifested such an intention of abandoning the right as will estop him from asserting it.").

In addition, an easement over Parcel 3 can only exist if the easement still exists over the Stonecrest development and the appurtenant forest conservation area. It is clear, beyond mere inference, that the Stonecrest developer (and the Town of Keedysville) relied on non-use and abandonment when subdividing, approving, and constructing Stonecrest. In laying Stonecrest and the appurtenant forest conservation area on top of the easement, the developer took affirmative and obvious steps in reliance of abandonment. There is no evidence that the dominant estates did anything to stop the development or to assert their rights during the subdivision process, any public comment period, any public hearing, or any appeal process. From at least 2005 when the subdivision was approved and initial construction began, through 2016 when construction began in earnest, until May 2022 when Justin Holder cut a lane through Parcel 3, the dominant estates allowed their "rights to lie fallow and unused," thus "manifested such an intention of abandoning the right" so as to be estopped from now claiming it.[59]

With nonuse and reliance by the Stonecrest developer (and the Town), and acquiescence by the dominant estates, the dominant estates are estopped from claiming the easement over Stonecrest. Therefore, because the Wagon Road easement is terminated on Stonecrest and the appurtenant forest conservation area, the easement cannot extend to Plaintiff's Parcel 3. Plats 8292-93 and the neighborhood that exists there today confirm as much.

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[59] *United Finance Corp.,* 172 Md. at 147.

G. Adverse Possession by Plaintiff Young.

Likewise, if this court were to ignore the original defect in the Cost Deed, a private easement may be terminated by adverse possession. As noted in Powell on Real Property:

> The use of the land by the servient tenant must be one that is incompatible or irreconcilable with the authorized right of use.... Where the dominant owner abstains from use of the easement, the servient owner, in the exercise of the privilege to use his or her own land in any manner desired not interfering with the exercise of the easement, has an enlarged scope of privileged action. *It is, therefore, under these circumstances more difficult for the servient owner to establish the adverse character of behavior. Unless the conduct is actionable by the dominant owner, it cannot result in a prescriptive extinguishment of the* easement.[60]

As determined above, if Plaintiff's deed is somehow defective, Plaintiff Young adversely possessed Parcel 3 and did so in contravention of the rights of the dominant estates. From the day he purchased the property, he used Parcel 3 for his own benefit and in contravention of the dominant estates' right to use. When he allowed Parcel 3 to go back to nature with the growth of mature trees and thick brush, he created an even greater challenge to the dominant estates' rights. Plaintiff's maintenance of Parcel 3 was absolutely inconsistent with the use of the Wagon Road for ingress and egress, whether by car or on foot. His ejection of trespassers and posting of "No Trespass" signs objectively showed his intention that no person was allowed within Parcel 3. His conduct in the management of Parcel 3 was actionable by the dominant estates at all times, yet the dominant estates did nothing to exercise their rights from 1988 to 2020 – 32 years.[61]

Recognizing the cautionary language of Powell on Real Property suggesting that adverse possession of an easement requires more than mere adverse possession of regular land, this case has the "more." As such, any portion of the easement that encroached on Parcel 3 was terminated at a minimum, in 2008 when Plaintiff perfected his ownership, and most certainly years before Justin Holder entered the property in May 2020 to attempt to cut a road.

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[60] Powell on Real Property §34.21[1] (Michael A. Wolf ed., 2013).

[61] Recognizing, of course, that the exercise of rights by the dominant estates would have never resulted in actual access to a road given the original defect in the Cost Deed.

H. Conclusion.

The Wagon Road easement of the Cost Deed was defective from the start. It was an easement to nowhere. It does not now extend, and never did extend, to a public road. The easement does not exist because its stated purpose could never be lawfully realized. However, even if the original defect is overlooked, abandonment of the use from at least 1988 to present, and the actions of the servient estates in reliance thereon, coupled with the acquiescence of the dominant estates, estops the dominant estates from prevailing on a claim of easement. In addition, Plaintiff's adverse possession of Parcel 3 has terminated the easement on Parcel 3. The Wagon Road easement does not exist, and it cannot exist, for the purpose for which it was originally, and defectively, granted. The Wagon Road easement is terminated.

IV. Injunction.

Plaintiff requests that Defendants be enjoined from entering on Plaintiff's land. The standard for the grant of an injunction is a four-factor test:

(1) The existence of some right could be injured without an injunction;

(2) Whether the plaintiff will suffer irreparable injury without an injunction;

(3) The 'balance of convenience' determined by whether greater injury would be done to the defendant by granting the injunction than would result from its refusal; and

(4) In the appropriate case, the public interest.

Injunctive relief is "a preventative and protective remedy, aimed at future acts, and is not intended to redress past wrongs."[62] As the Court of Appeals noted in *El Bey,* the injury:

> …need not be "beyond all possibility of compensation in damages, nor need it be very great." Rather, "irreparable injury is suffered whenever monetary damages are difficult to ascertain or are otherwise inadequate."[63]

Evidence at trial established that Mr. Holder made a significant intrusion into Plaintiff's land in May 2020 with a Bobcat and a chain saw. Without permission, he cut Plaintiff's trees and brush in an attempt to reopen the Wagon Road easement. He had no right to do so. Such actions, or anything close to them, cannot happen again.

Plaintiff has property rights to protect. Mr. Holder has shown a lack of respect for Plaintiff's rights. Plaintiff will suffer irreparable injury if continued trespasses are permitted. The balance of convenience weighs in favor of Plaintiff. Defendants suffer nothing from the entry of an injunction. The public interest is served by limiting controversy between the parties.

The court recognizes that the 2020 intrusion was committed by Mr. Holder. However, he does not personally own the land that would have benefited from the opening of the Wagon Road easement. Deena Holder and Uncle Eddie's own the lands. In his Third Amended Complaint in Justin Holder v. Christine Morral, *et al.*, Case No.: C-21-CV-21-116, Mr. Holder states:

> [i]n May 2020, Plaintiff [Justin Holder], at the request of and with the permission of his wife [Deena Holder], undertook to maintain and repair a record title right of way belonging to his wife that…runs, in part, behind and through the Morral Property [Stonecrest Lot 9].

This statement clearly refers to Mr. Holder's trespass into Plaintiff's Parcel 3 in May 2020. Given that Mr. Holder admits he entered Parcel 3 at Deena Holder's request, and given that the

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[62] *El Bey v. Moorish Science Temple of America, Inc.,* 362 Md. 339, 353 (2001) (citations omitted).
[63] *Id.*, at 355-56 (citations omitted).

Holders use Uncle Eddie's as an alter-ego (see footnote 1), any suggestion that Mr. Holder was acting only for his own personal benefit in 2020 is not believable. A permanent injunction will be entered against all Defendants.

V. A Note on Public Roads.

In this litigation, and in other litigation in this court, Defendant Justin Holder has asserted that certain closed or unopened public roads exist on Plaintiff's land and that Mr. Holder is entitled to sue Plaintiff, and other private citizens, to have them opened. This issue was not considered during trial because the court made a preliminary determination that Mr. Holder cannot sue another private citizen to compel government to open an abandoned, unused, closed, or otherwise unopened road.

Maryland law grants counties and municipalities authority to open, alter, or close local roads.[64] If a public road exists, existed, or should exist on Plaintiff's land, such a determination is to be made by Washington County or Town governments pursuant to the Maryland Code and local law.[65] Due to their involvement in the discovery stage of this case, the County and Town governments are aware of Mr. Holder's belief that public roads exist over Plaintiff's property. However, no government has filed suit or taken any action to open any road on Plaintiff's property or otherwise objected to Plaintiff's ownership of Parcels 1, 2, and 3 free of public roads. Claims of public roads on Plaintiff's property were not heard because they are without merit.

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[64] Md. Code, Local Govt. §12-504.

[65] *See e.g.*, MD Code, Land Use § 6-107; Charter of the Town of Keedysville, Public Ways and Sidewalks, Sections 73- 74, enacted June 24, 2003; Washington County Subdivision Ordinance, amended September 22, 2009; Washington County Zoning Ordinance, § 4.7, amended April 26, 2018; Washington County Adequate Public Facilities Ordinance, Article IV Roads, amended October 22, 2013.

CONCLUSION

For the foregoing reasons, judgment is entered in favor of Plaintiff and against the Defendants. A separate Order will issue consistent with this Opinion.

9/6/2022
Date

Judge, Circuit Court for Washington County

cc: Counsel of Record
Justin Holder

IN THE CIRCUIT COURT FOR WASHINGTON COUNTY, MARYLAND

JEFFREY YOUNG *

Plaintiff

v. * Case No.: C-21-CV-20-371

JUSTIN HOLDER, *et al.*

Defendants *

ORDER

This matter came to the court for a three-day trial on the merits, beginning June 21, 2022. Consistent with an Opinion issued this same date, it is this 6th day of September 2022, by the Circuit Court for Washington County, Maryland hereby:

ORDERED, the relief requested in Plaintiff Jeffrey Young's "Complaint and Petition to Quiet Title and for Declaratory and Injunctive Relief" is granted as indicated herein.

ORDERED, Plaintiff Jeffrey Young is the owner of Parcel 1, Parcel 2, and Parcel 3 as shown on Plat 2499, one of the land records of Washington County, Maryland.

ORDERED, no other person has any ownership interest or claim in Parcel 1, Parcel 2, or Parcel 3.

ORDERED, the western boundary of Parcel 3 as shown on Plat 2499 abuts and borders the eastern boundary of the Stonecrest development as shown on Plats 8292-93, as said plats are recorded in the Land Records of Washington County, Maryland. There is no additional strip of land or Gap between Parcel 3 and the Stonecrest development.

ORDERED, any deed purporting to transfer or quitclaim any part of Parcel 1, Parcel 2, or Parcel 3 (as defined herein) to Justin Holder or to any other person is invalid and void.

Entered: Clerk, Circuit Court for
Washington County, MD
September 7, 2022

ORDERED, the "Wagon Road" easement created in 1872 by Aaron Cost and Malinda Cost, and recorded at W.McK.K. 6, folio 363 among the Land Records of Washington County, Maryland, is terminated in total across Plaintiff's lands and across the lands that comprise any part of the Stonecrest development and the appurtenant forest conservation area as shown on Plats 8292-93. However, nothing in this Order is to negatively affect the rights of Defendants Deena Holder (Tax Parcel 127 and Parcel 412) and Uncle Eddie's Brokedown Palace, LLC (Tax Parcel 414) for ingress and egress to their properties from Antietam Drive in Keedysville, Maryland and the access lane thereto as shown on Plats 8292-93.

ORDERED, Defendants Justin Holder, Deena Holder, Uncle Eddie's Brokedown Palace, LLC, and any member or agent thereof, be and are hereby permanently enjoined from entering Plaintiff's land as described in the Opinion and this Order.

Judge, Circuit Court for Washington County

cc: Counsel of Record
Justin Holder

IN THE CIRCUIT COURT FOR WASHINGTON COUNTY, MARYLAND

JEFFREY YOUNG *

Plaintiff

v. * Case No.: C-21-CV-20-371

JUSTIN HOLDER, *et al.*

Defendants *

ORDER

This matter came to the court for a three-day trial on the merits, beginning June 21, 2022. In an Opinion and Order issued this same date, this court determined that any deed purporting to transfer or quitclaim any part of Parcel 1, Parcel 2, or Parcel 3 (as defined therein) to Justin Holder or to any other person is invalid and void. Consistent with the Opinion and Order, it is this 6th day of September 2022, by the Circuit Court for Washington County, Maryland hereby:

ORDERED, the following deeds are void and shall be indicated as void in the Land Records of Washington County, Maryland:

1. Liber 6370, folio 249, Stonecrest Development, LLC to Justin Holder dated August 10, 2020
2. Liber 6414, folio 219, Jennifer Butts Baker to Justin Holder dated November 3, 2020
3. Liber 6729, folio 365, Jennifer Butts Baker to Justin Holder dated June 22, 2021

Judge, Circuit Court for Washington County

cc: Counsel of Record
Justin Holder

Entered: Clerk, Circuit Court for
Washington County, MD
September 7, 2022